



## United City of Yorkville

800 Game Farm Road

Yorkville, Illinois 60560

Telephone: 630-553-4350

www.yorkville.il.us

### AGENDA ECONOMIC DEVELOPMENT COMMITTEE MEETING

Tuesday, October 6, 2020

6:00 p.m.

City Hall Conference Room  
800 Game Farm Road, Yorkville, IL

---

#### **Citizen Comments:**

**Minutes for Correction/Approval:** September 1, 2020

#### **New Business:**

1. EDC 2020-43 Building Permit Report for August 2020
2. EDC 2020-44 Building Inspection Report for August 2020
3. EDC 2020-45 Property Maintenance Report for August 2020
4. EDC 2020-46 Economic Development Report for September 2020
5. EDC 2020-47 Yorkville/Plainfield Boundary Agreement Extension
6. EDC 2020-48 Meeting Schedule for 2021

#### **Old Business:**

1. EDC 2020-32 Urban Chickens
2. EDC 2020-42 Limited Manufacturing Uses in Residential Districts

#### **Additional Business:**

2019/2020 City Council Goals – Economic Development Committee		
Goal	Priority	Staff
“Southside Development”	4	Bart Olson, Krysti Barksdale-Noble & Lynn Dubajic
“Downtown and Riverfront Development”	5	Bart Olson, Tim Evans & Krysti Barksdale-Noble
“Metra Extension”	7	Bart Olson, Rob Fredrickson, Eric Dhuse, Krysti Barksdale-Noble & Erin Willrett
“Manufacturing and Industrial Development”	8 (tie)	Bart Olson, Krysti Barksdale-Noble, Erin Willrett, Lynn Dubajic, Eric Dhuse & Brad Sanderson
“Expand Economic Development Efforts”	10	Krysti Barksdale-Noble & Lynn Dubajic
“Revenue Growth”	13	Rob Fredrickson, Krysti Barksdale-Noble & Lynn Dubajic
“Entrance Signage”	17	Krysti Barksdale-Noble & Erin Willrett

UNITED CITY OF YORKVILLE  
WORKSHEET  
ECONOMIC DEVELOPMENT COMMITTEE  
Tuesday, October 6, 2020  
6:00 PM  
CITY HALL CONFERENCE ROOM

---

**CITIZEN COMMENTS:**

---

---

**MINUTES FOR CORRECTION/APPROVAL:**

---

1. September 1, 2020

- ☐ Approved \_\_\_\_\_
- ☐ As presented
- ☐ With corrections

---

**NEW BUSINESS:**

---

1. EDC 2020-43 Building Permit Report for August 2020

- ☐ Informational Item
- ☐ Notes \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

---

2. EDC 2020-44 Building Inspection Report for August 2020

☐ Informational Item

☐ Notes \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

3. EDC 2020-45 Property Maintenance Report for August 2020

☐ Informational Item

☐ Notes \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

4. EDC 2020-46 Economic Development Report for September 2020

☐ Informational Item

☐ Notes \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

5. EDC 2020-47 Yorkville/Plainfield Boundary Agreement Extension

☐ Moved forward to CC \_\_\_\_\_

☐ Approved by Committee \_\_\_\_\_

☐ Bring back to Committee \_\_\_\_\_

☐ Informational Item

☐ Notes \_\_\_\_\_

---

---

---

6. EDC 2020-48 Meeting Schedule for 2021

☐ Moved forward to CC \_\_\_\_\_

☐ Approved by Committee \_\_\_\_\_

☐ Bring back to Committee \_\_\_\_\_

☐ Informational Item

☐ Notes \_\_\_\_\_

---

---

---

**OLD BUSINESS:**

---

1. EDC 2020-32 Urban Chickens

☐ Moved forward to CC \_\_\_\_\_

☐ Approved by Committee \_\_\_\_\_

☐ Bring back to Committee \_\_\_\_\_

☐ Informational Item

☐ Notes \_\_\_\_\_

---

---



---

2. EDC 2020-42 Limited Manufacturing Uses in Residential Districts

☐ Moved forward to CC \_\_\_\_\_

☐ Approved by Committee \_\_\_\_\_

☐ Bring back to Committee \_\_\_\_\_

☐ Informational Item

☐ Notes \_\_\_\_\_

---

---

---

**ADDITIONAL BUSINESS:**

---



Reviewed By:	
Legal	<input type="checkbox"/>
Finance	<input type="checkbox"/>
Engineer	<input type="checkbox"/>
City Administrator	<input type="checkbox"/>
Human Resources	<input type="checkbox"/>
Community Development	<input type="checkbox"/>
Police	<input type="checkbox"/>
Public Works	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>

Agenda Item Number

Minutes

Tracking Number

### Agenda Item Summary Memo

**Title:** Minutes of the Economic Development Committee – September 1, 2020

**Meeting and Date:** Economic Development Committee – October 6, 2020

**Synopsis:** \_\_\_\_\_  
\_\_\_\_\_

#### Council Action Previously Taken:

Date of Action: \_\_\_\_\_ Action Taken: \_\_\_\_\_

Item Number: \_\_\_\_\_

**Type of Vote Required:** Majority

**Council Action Requested:** Committee Approval

**Submitted by:** Minute Taker

Name

Department

#### Agenda Item Notes:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Have a question or comment about this agenda item?*

*Call us Monday-Friday, 8:00am to 4:30pm at 630-553-4350, email us at [agendas@yorkville.il.us](mailto:agendas@yorkville.il.us), post at [www.facebook.com/CityofYorkville](https://www.facebook.com/CityofYorkville), tweet us at @CityofYorkville, and/or contact any of your elected officials at <http://www.yorkville.il.us/320/City-Council>*

**DRAFT**

**UNITED CITY OF YORKVILLE  
ECONOMIC DEVELOPMENT COMMITTEE  
Tuesday, September 1, 2020, 6:00pm  
City Council Chambers**

**Note:** In accordance with Public Act 101-0640 and Gubernatorial Disaster Proclamation issued by Governor Pritzker pursuant to the powers vested in the Governor under the Illinois Emergency Management Agency Act, remote attendance was allowed for this meeting to encourage social distancing due to the current Covid-19 pandemic.

**In Attendance:**

**Committee Members**

Chairman Jackie Milschewski/in-person	Alderman Ken Koch/in-person
Alderman Jason Peterson/in-person	Alderman Joel Frieders/remote

**Other City Officials**

City Administrator Bart Olson/in-person  
Assistant City Administrator Erin Willrett/remote  
Community Development Director Krysti Barksdale-Noble/in-person  
Senior Planner Jason Engberg/in-person  
Code Official Pete Ratosh/in-person  
Alderman Chris Funkhouser/in-person

**Other Guests**

Consultant Lynn Dubajic/remote  
Todd Vandermyde, Federal Firearms Licensees of Illinois (FFL-IL)/in-person  
Amy Vandermyde, Federal Firearms Licensees of Illinois (FFL-IL)/in-person

The meeting was called to order at 6:00pm by Chairman Jackie Milschewski.

**Citizen Comments**

Mr. Todd Vandermyde, Executive Director of Federal Firearms Licensees of Illinois, was present to provide information in regards to a proposal from Alderman Funkhouser to be discussed later in the meeting. Mr. Vandermyde shared information regarding manufacturing of specialized guns and gun parts. With over 30 years of experience, he also works with law enforcement and provides services to them.

**Minutes for Correction/Approval** August 4, 2020

The minutes were approved by a unanimous voice vote.

**New Business**

***1. EDC 2020-38 Building Permit Report for July 2020***

Mr. Ratosh reported the number of permits issued and said the staff has been very

busy with inspections. He said the numbers of permits this year have already exceeded last years' total. More inspections will be outsourced and single-family homes comprise the largest number of those. Damage from a recent storm was also discussed.

## ***2. EDC 2020-39 Building Inspection Report for July 2020***

There were 543 inspections completed in July, most of which were done in-house. However, Mr. Ratos said more will be outsourced due to the increasing volume. No further discussion.

## ***3. EDC 2020-40 Property Maintenance Report for July 2020***

Three cases were heard in July, one of which was a weed violation on Heustis that was found liable and fined. Mr. Ratos said when a case goes to adjudication, the violator has received several door-hangers and visits in an effort to avoid citations. Chairman Milschewski asked how chronic violators could be handled in the future. Due to Public Works workload, the storm that came through Yorkville and Covid, the process is taking longer. Mr. Ratos said they must allow the weeds to become tall enough to constitute a violation and if they are mowed every two weeks, it might not qualify as a violation. Mr. Ratos said notifications are made to all concerned parties such as mortgage holders, owners, etc. before the case proceeds to adjudication.

## ***4. EDC 2020-41 Economic Development Report for August 2020***

Ms. Dubajic highlighted the following:

1. Popeye's is slated to open around September 7<sup>th</sup>.
2. Gas n Wash is scheduled for a ribbon-cutting on September 21<sup>st</sup>. The Dunkin Donuts store there will open after Labor Day and prior to ribbon-cutting.

## ***5. EDC 2020-42 Limited Manufacturing Uses in Residential Districts***

Ms. Noble said staff received a call from a resident who has a gun-manufacturing business and would like to re-locate it to his garage to save the overhead on rental space. A request was received from Alderman Funkhouser to amend the Zoning Ordinance to allow limited manufacturing use in a residential zoned district. A similar discussion was held in 2012 at a Plan Commission meeting and it was decided to not allow manufacturing or the retail aspect of guns in residential areas. Ms. Noble contacted other local municipalities for input and found differing codes and different types of firearms licenses. She also spoke with the Police Chief who had some questions and concerns. She is now seeking direction from the committee.

Alderman Koch verified that the guns cannot be discharged in a residential area and he also expressed concern about theft. Ms. Noble said ATF has a chart that shows where all the licenses are being held and where thefts have occurred. Alderman Frieders said he does not want to see retail sales or re-loaded ammunition in a residential area and that a special use is the best way to approach this. Alderman Peterson asked Mr. Vandermyde if he has fully assembled guns, which he does not. Mr. Vandermyde discussed licensing requirements and noted that he is required to have a home security system and other safeguards and there are 60 pages of regulations. He said the majority of his business is the sale of parts. A special use request would go through the Public Hearing process and would take about 4-5 months. A license process would take less time. Mr. Olson said specific guidelines will be brought back for discussion.

**Old Business:**

***1. EDC 2020-32 Urban Chickens***

Ms. Noble said she was given direction in July to research an urban chicken policy and she has obtained information from other communities. Staff found three policy options: limited regulation, moderate regulation and substantial regulation. She discussed the components of each such as lot size requirements, number of chickens, coop size, permits, enforcement, etc. She asked for direction as to what policy type the Aldermen would prefer.

The committee discussed whether there had been any other resident input or requests for chickens. There were mixed opinions among the small number of citizens who responded and they had concerns for noise, mess, etc. It was decided that public input is important and staff was directed to contact HOA's first. Aldermen will also reach out to their Wards for feedback via Facebook and all information will be brought back to this committee.

**Additional Business:** None

There was no further business and the meeting adjourned at 7:08pm.

Minutes respectfully submitted by  
Marlys Young, Minute Taker/remote



Reviewed By:	
Legal	<input type="checkbox"/>
Finance	<input type="checkbox"/>
Engineer	<input type="checkbox"/>
City Administrator	<input checked="" type="checkbox"/>
Human Resources	<input type="checkbox"/>
Community Development	<input checked="" type="checkbox"/>
Police	<input type="checkbox"/>
Public Works	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>

Agenda Item Number

New Business #1

Tracking Number

EDC 2020-43

### Agenda Item Summary Memo

**Title:** Building Permit Report for August 2020

**Meeting and Date:** Economic Development Committee – October 6, 2020

**Synopsis:** All permits issued in August 2020

#### Council Action Previously Taken:

Date of Action: N/A Action Taken: N/A

Item Number: N/A

**Type of Vote Required:** Informational

**Council Action Requested:** None

**Submitted by:** D. Weinert Community Development  
Name Department

#### Agenda Item Notes:

---

---

---

---

---



# UNITED CITY OF YORKVILLE

## BUILDING PERMIT REPORT

### AUGUST 2020

#### TYPES OF PERMITS

	Number of Permits Issued	SFD <i>Single Family Detached</i>	B.U.I.L.D <i>Single Family Detached 1/1/12-12/31/17</i>	SFA <i>Single Family Attached</i>	Multi- Family <i>Apartments Condominiums</i>	Commercial <i>Includes all Permits Issued for Commercial Use</i>	Industrial	Misc.	Construction Cost	Permit Fees
August 2020	194	34	0	16	0	11	0	133	7,978,596.00	462,565.25
Calendar Year 2020	1,248	123	0	42	0	69	0	1,041	34,547,360.00	1,371,230.59
Fiscal Year 2021	862	78	0	38	0	29	0	717	22,938,848.00	903,278.22
August 2019	395	7	0	0	0	7	0	361	7,632,264.00	116,812.93
Calendar Year 2019	1,428	101	0	10	0	78	0	1,395	39,672,083.00	1,294,804.39
Fiscal Year 2020	1,147	53	0	5	0	35	0	1,054	22,202,103.00	684,274.67
August 2018	112	40	0	0	0	12	0	60	7,283,055.00	318,011.38
Calendar Year 2018	760	148	14	36	0	101	0	461	42,364,409.00	1,991,436.42
Fiscal Year 2019	453	107	0	0	0	45	0	301	26,129,217.00	912,527.31
August 2017	124	18	15	0	0	18	0	73	9,447,701.00	433,123.77
Calendar Year 2017	677	49	69	0	73 Unit	101	0	385	52,234,220.00	1,960,213.80
Fiscal Year 2018	444	33	41	0	73 Unit	57	0	240	41,640,876.00	1,371,004.27



Reviewed By:	
Legal	<input type="checkbox"/>
Finance	<input type="checkbox"/>
Engineer	<input type="checkbox"/>
City Administrator	<input checked="" type="checkbox"/>
Human Resources	<input type="checkbox"/>
Community Development	<input checked="" type="checkbox"/>
Police	<input type="checkbox"/>
Public Works	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>

Agenda Item Number

New Business #2

Tracking Number

EDC 2020-44

### Agenda Item Summary Memo

**Title:** Building Inspection Report for August 2020

**Meeting and Date:** Economic Development Committee – October 6, 2020

**Synopsis:** All inspections scheduled in August 2020

#### Council Action Previously Taken:

Date of Action: N/A Action Taken: N/A

Item Number: N/A

**Type of Vote Required:** Informational

**Council Action Requested:** None

**Submitted by:** D. Weinert Community Development  
Name Department

#### Agenda Item Notes:

---

---

---

---

---

---



DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 1

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20180766	211 WALSH CIR	43		08/28/2020
PR	_____	015-FIN FINAL INSPECTION	20180960	2431 ANNA MARIA LN	705		08/13/2020
PR	_____	016-PLF PLUMBING - FINAL OSR READ					08/13/2020
PR	_____	012-FIN FINAL INSPECTION	20190133	3112 LAUREN DR	108		08/13/2020
PR	_____	013-PLF PLUMBING - FINAL OSR READ					08/13/2020
EEI	_____	014-EFL ENGINEERING - FINAL INSPE					08/13/2020
GH	_____	002-FIN FINAL INSPECTION Comments1: ROOF & SIDING	20190821	2233 MEADOWVIEW LN	59		08/03/2020
BF	_____	006-FIN FINAL INSPECTION Comments1: BRAD 630-514-0571, SEE INSPECTION TICKET Comments2: , TOO MANY ITEMS TO LIST HERE	20191035	2820 SILVER SPRINGS CT	260		08/28/2020
PBF	_____	007-PLF PLUMBING - FINAL OSR READ Comments1: BRAD 630-514-0571 (RESTORATION)					08/28/2020
BF	_____	AM 008-REI REINSPECTION Comments1: BRAD 630-514-0571					08/31/2020
PR	_____	014-FIN FINAL INSPECTION	20191730	2471 ANNA MARIA LN	709		08/24/2020
PR	_____	015-PLF PLUMBING - FINAL OSR READ					08/24/2020
PR	_____	011-FIN FINAL INSPECTION	20191972	1124 REDWOOD DR	50		08/04/2020
PR	_____	012-PLF PLUMBING - FINAL OSR READ					08/04/2020
EEI	_____	013-EFL ENGINEERING - FINAL INSPE					08/05/2020
PR	_____	014-PLF PLUMBING - FINAL OSR READ	20191981	1867 WREN RD	289		08/24/2020
PR	_____	015-FIN FINAL INSPECTION					08/24/2020
BC	_____	011-EPW ENGINEERING- PUBLIC WALK Comments1: PTO	20192092	1111 GOLDFINCH AVE	298		08/25/2020
BC	_____	014-PPS PRE-POUR, SLAB ON GRADE Comments1: WALKS & PATIO	20192093	1113 GOLDFINCH AVE	298-2		08/25/2020
BC	_____	014-PPS PRE-POUR, SLAB ON GRADE Comments1: WALKS & PATIO	20192094	1115 GOLDFINCH AVE	298-3		08/25/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 2

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	013-INS INSULATION	20192095	1117 GOLDFINCH AVE	298-4		08/03/2020
BC	_____	014-PPS PRE-POUR, SLAB ON GRADE Comments1: WALKS & PATIO					08/25/2020
BC	_____	015-EPW ENGINEERING- PUBLIC WALK	20192100	1121 GOLDFINCH AVE	2971		08/05/2020
PR	_____	016-FIN FINAL INSPECTION					08/19/2020
PR	_____	017-PLF PLUMBING - FINAL OSR READ					08/19/2020
BC	_____	012-EPW ENGINEERING- PUBLIC WALK	20192101	1123 GOLDFINCH AVE	2972	08/05/2020	
PR	_____	013-FIN FINAL INSPECTION Comments1: JEFF 847-456-8082					08/24/2020
PR	_____	014-PLF PLUMBING - FINAL OSR READ					08/24/2020
BC	_____	012-EPW ENGINEERING- PUBLIC WALK	20192102	1125 GOLDFINCH AVE	2973		08/04/2020
BC	_____	012-EPW ENGINEERING- PUBLIC WALK	20192103	1127 GOLDFINCH AVE	2974		08/04/2020
BF	_____	013-FIN FINAL INSPECTION Comments1: JEFF 847-456-8082					08/26/2020
PBF	_____	014-PLF PLUMBING - FINAL OSR READ Comments1: JEFF 847-456-8082					08/26/2020
PR	_____	008-RFR ROUGH FRAMING	20192122	508 SHADOW WOOD DR	101		08/14/2020
BC	_____	009-INS INSULATION					08/18/2020
PR	_____	AM 020-ABC ABOVE CEILING	20192170	866 EDWARD LN	1A		08/10/2020
PR	_____	PM 023-FIN FINAL INSPECTION					08/17/2020
PR	_____	024-PLF PLUMBING - FINAL OSR READ					08/17/2020
PR	_____	016-FIN FINAL INSPECTION	20192182	604 GREENFIELD TURN	82		08/17/2020
PR	_____	017-PLF PLUMBING - FINAL OSR READ					08/17/2020
EEI	_____	018-EFL ENGINEERING - FINAL INSPE					08/17/2020
BC	_____	013-EPW ENGINEERING- PUBLIC WALK	20192211	2010 SQUIRE CIR	200		08/06/2020
PR	_____	007-RFR ROUGH FRAMING	20200022	2689 PATRIOT CT	227		08/17/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 3

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	008-INS INSULATION					08/19/2020
BC	_____	009-PWK PRIVATE WALKS					08/31/2020
PR	_____	011-FIN FINAL INSPECTION	20200071	2001 WREN RD	23		08/05/2020
PR	_____	012-PLF PLUMBING - FINAL OSR READ					08/05/2020
BC	_____	016-PPS PRE-POUR, SLAB ON GRADE	20200094	2005 MARKETVIEW DR	4		08/03/2020
BC	_____	PM 017-PPS PRE-POUR, SLAB ON GRADE Comments1: PIERS FOR MENU BOARD, DRIVE THRU					08/13/2020
PR	_____	AM 018-ABC ABOVE CEILING					08/18/2020
PR	_____	019-FIN FINAL INSPECTION					08/31/2020
PR	_____	020-PLF PLUMBING - FINAL OSR READ					08/31/2020
BKF	_____	021-FIN FINAL INSPECTION					08/31/2020
PR	_____	013-FIN FINAL INSPECTION	20200098	2088 SQUIRE CIR	179		08/14/2020
PR	_____	014-PLF PLUMBING - FINAL OSR READ					08/14/2020
EEI	_____	015-EFL ENGINEERING - FINAL INSPE					08/14/2020
PR	_____	007-RFR ROUGH FRAMING	20200119	2042 SQUIRE CIR	193		08/25/2020
PR	_____	008-INS INSULATION					08/27/2020
PR	_____	015-FIN FINAL INSPECTION	20200144	2481 ANNA MARIA LN	710	08/24/2020	
PR	_____	016-PLF PLUMBING - FINAL OSR READ				08/24/2020	
PR	_____	009-FIN FINAL INSPECTION	20200153	2142 HARTFIELD AVE	422		08/11/2020
PR	_____	010-PLF PLUMBING - FINAL OSR READ					08/11/2020
EEI	_____	011-EFL ENGINEERING - FINAL INSPE Comments1: BBOX					08/11/2020
PR	_____	014-FIN FINAL INSPECTION	20200154	2077 HEARTHSTONE AVE	346		08/18/2020
PR	_____	015-PLF PLUMBING - FINAL OSR READ					08/18/2020
EEI	_____	016-EFL ENGINEERING - FINAL INSPE					08/18/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 4

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	012-PWK PRIVATE WALKS	20200155	2135 BLUEBIRD LN	235-2		08/05/2020
BC	_____	012-PWK PRIVATE WALKS	20200156	2137 BLUEBIRD LN	235-1		08/05/2020
BC	_____	010-PWK PRIVATE WALKS	20200157	2125 BLUEBIRD LN	234-1		08/05/2020
BC	_____	013-PWK PRIVATE WALKS	20200158	2123 BLUEBIRD LN	234-2		08/05/2020
PR	_____	014-PWK PRIVATE WALKS	20200160	467 NORWAY CIR	79		08/03/2020
PR	_____	015-FIN FINAL INSPECTION					08/20/2020
PR	_____	016-PLF PLUMBING - FINAL OSR READ					08/20/2020
EEI	_____	017-EFL ENGINEERING - FINAL INSPE Comments1: OUTSIDE READER INSTALLED 8-24-20 JON BAU Comments2: ER					08/21/2020
GH	10:00	001-ROF ROOF UNDERLAYMENT ICE & W	20200166	105 N CONOVER CT	23		08/11/2020
BC	_____	010-STP STOOP	20200180	1161 BLACKBERRY SHORE LN	50		08/05/2020
PR	_____	013-FIN FINAL INSPECTION					08/17/2020
PR	_____	014-PLF PLUMBING - FINAL OSR READ					08/17/2020
BC	_____	005-FIN FINAL INSPECTION	20200220	472 HONEYSUCKLE LN	159		08/14/2020
BC	_____	015-PWK PRIVATE WALKS Comments1: PIN SERVICE WALK TO STOOP	20200224	3247 BOOMBAH BLVD	141		08/17/2020
PR	_____	014-FIN FINAL INSPECTION	20200242	2068 SQUIRE CIR	185		08/10/2020
PR	_____	015-PLF PLUMBING - FINAL OSR READ					08/10/2020
EEI	_____	016-EFL ENGINEERING - FINAL INSPE					08/06/2020
BC	_____	002-FOU FOUNDATION	20200253	2508 ANNA MARIA LN	597		08/06/2020
BC	_____	003-BKF BACKFILL					08/13/2020
PR	14:00	004-WAT WATER Comments1: STORM					08/17/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/20/2020
PR	_____	006-ELS ELECTRIC SERVICE					08/20/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 5

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	007-BSM BASEMENT FLOOR					08/27/2020
BC	_____	001-FTG FOOTING	20200254	2520 ANNA MARIA LN	596		08/03/2020
BC	_____	002-FOU FOUNDATION					08/10/2020
PR	14:00 Comments1: STORM	003-WAT WATER					08/17/2020
BC	_____	004-BKF BACKFILL					08/18/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/20/2020
PR	_____	006-ELS ELECTRIC SERVICE					08/20/2020
BC	_____	007-BSM BASEMENT FLOOR					08/27/2020
BC	_____	001-FTG FOOTING	20200255	2528 ANNA MARIA LN	595		08/03/2020
BC	_____	AM 002-FOU FOUNDATION					08/10/2020
PR	_____	003-WAT WATER Comments1: STORM					08/17/2020
BC	_____	004-BKF BACKFILL					08/18/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/20/2020
BC	_____	001-FOU FOUNDATION	20200257	2828 SHERIDAN CT	198		08/13/2020
BC	_____	002-FTG FOOTING					08/12/2020
BC	_____	003-BKF BACKFILL					08/17/2020
PBF	_____	004-PLU PLUMBING - UNDERSLAB Comments1: 331-223-6615 JIM				08/25/2020	
PR	_____	PM 005-WAT WATER					08/19/2020
BC	_____	006-BSM BASEMENT FLOOR					08/27/2020
PR	_____	014-FIN FINAL INSPECTION	20200342	2005 SHETLAND CT	35		08/18/2020
PR	_____	015-PLF PLUMBING - FINAL OSR READ					08/18/2020
BC	_____	013-EPW ENGINEERING- PUBLIC WALK Comments1: INSTALL REBAR ACROSS WATER LINE BEFORE P Comments2: OURING	20200343	2052 WREN RD	30		08/04/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 6

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	003-FIN FINAL INSPECTION	20200345	502 HEUSTIS ST			08/14/2020
		Comments1: 54.5% OPACITY, 21"COVERAGE OVER 44" SPAN					
PR	_____	009-SUM SUMP	20200366	2147 BLUEBIRD LN	236-2		08/04/2020
PR	_____	010-RFR ROUGH FRAMING					08/11/2020
BC	_____	011-INS INSULATION					08/13/2020
PR	_____	009-SUM SUMP	20200367	2149 BLUEBIRD LN	236-1		08/04/2020
PR	_____	010-RFR ROUGH FRAMING					08/11/2020
BC	_____	011-INS INSULATION					08/13/2020
BC	_____	013-PWK PRIVATE WALKS	20200368	1637 SHETLAND LN	38		08/04/2020
		Comments1: INSTALL REPAIR ACROSS WATER LINES BEFORE					
		Comments2: POURING					
PR	_____	008-RFR ROUGH FRAMING	20200408	2135 HEARTHSTONE AVE	430		08/03/2020
BC	_____	009-INS INSULATION					08/05/2020
BC	_____	010-EPW ENGINEERING- PUBLIC WALK					08/17/2020
BC	_____	013-PWK PRIVATE WALKS	20200415	2036 SQUIRE CIR	195		08/05/2020
BC	_____	013-PWK PRIVATE WALKS	20200445	2188 HARTFIELD AVE	426		08/17/2020
BC	_____	010-GAR GARAGE FLOOR	20200450	941 BLACKBERRY SHORE LN	28		08/11/2020
		Comments1: STOOPS					
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20200521	2834 SILVER SPRINGS CT	256		08/06/2020
BC	_____	001-BND POOL BONDING	20200527	1092 STILLWATER CT	95		08/11/2020
		Comments1: INSTALL PIG TAIL TO COVER MOTOR; BOND AL					
		Comments2: L PIECES OF WIRE MESH IN SLAB					
BC	_____	002-REI REINSPECTION					08/12/2020
		Comments1: PARTIAL BONDING EQUIPMENT NOT INSTALLED					
BC	08:30	003-FIN FINAL INSPECTION					08/26/2020
BC	_____	001-FTG FOOTING	20200529	3232 LAUREN DR	118		08/13/2020
BC	_____	002-FOU FOUNDATION					08/14/2020
PBF	_____	003-PLU PLUMBING - UNDERSLAB					08/26/2020
		Comments1: KEN 331-213-4809					

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 7

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	004-BKF BACKFILL					08/20/2020
PR	14:00	005-ESW ENGINEERING - SEWER / WAT					08/21/2020
BC	_____	006-PPS PRE-POUR, SLAB ON GRADE					08/27/2020
BC	_____	002-FIN FINAL INSPECTION Comments1: MOVE LATCH RELEASE MIN 54" FROM GRADE	20200535	522 WINDETT RIDGE RD	172		08/13/2020
BC	_____	001-FIN FINAL INSPECTION Comments1: SEE NOTES IN FILE	20200536	522 WINDETT RIDGE RD	172		08/13/2020
PR	_____	001-RPZ PLUMBING - RPZ VALVE Comments1: LAWN IRRIGATION	20200537	2021 WREN RD	25		08/11/2020
PR	_____	008-RFR ROUGH FRAMING	20200557	906 S CARLY CIR	99		08/14/2020
BC	_____	009-GAR GARAGE FLOOR					08/17/2020
BC	_____	010-STP STOOP					08/17/2020
EEI	_____	AM 011-EPW ENGINEERING- PUBLIC WALK					08/20/2020
PR	_____	015-RMC ROUGH MECHANICAL					08/14/2020
PR	_____	007-REL ROUGH ELECTRICAL	20200558	1171 BLACKBERRY SHORE LN	51		08/17/2020
PR	_____	008-RFR ROUGH FRAMING					08/17/2020
PR	_____	009-PLR PLUMBING - ROUGH					08/17/2020
PR	_____	010-RMC ROUGH MECHANICAL					08/17/2020
BC	_____	PM 011-INS INSULATION					08/28/2020
PR	_____	PM 004-PLU PLUMBING - UNDERSLAB	20200559	846 EDWARD LN			08/06/2020
PR	_____	005-UGE UNDERGROUND ELECTRIC					08/11/2020
PR	_____	006-PPS PRE-POUR, SLAB ON GRADE					08/11/2020
BC	_____	007-PPS PRE-POUR, SLAB ON GRADE					08/12/2020
PR	_____	008-RFR ROUGH FRAMING	20200562	2120 HARTFIELD AVE	347		08/06/2020
BC	_____	009-INS INSULATION					08/10/2020
BF	_____	011-EPW ENGINEERING- PUBLIC WALK Comments1: COMEX 847-551-9066					08/27/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 8

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
GH	10:00	001-PHF POST HOLE - FENCE	20200605	3106 MATLOCK DR	681		08/04/2020
GH	_____	002-FIN FINAL INSPECTION					08/11/2020
GH	_____	001-FIN FINAL INSPECTION Comments1: SIDING	20200642	2417 SAGE CT	21		08/24/2020
BC	_____	011-PWK PRIVATE WALKS	20200675	391 HAZELTINE WAY	16		08/28/2020
PR	_____	009-SUM SUMP	20200693	2155 HARTFIELD AVE	421		08/04/2020
PR	_____	PM 010-RFR ROUGH FRAMING					08/12/2020
BC	_____	011-INS INSULATION					08/14/2020
BF	_____	AM 012-EPW ENGINEERING- PUBLIC WALK Comments1: COMEX 847-551-9066					08/27/2020
BF	_____	AM 001-FTG FOOTING Comments1: ABBY PROP 365-7229	20200696	889 GILLESPIE LN			08/26/2020
BF	_____	AM 001-FTG FOOTING Comments1: ABBY PROP 365-7229	20200697	887 GILLESPIE LN			08/26/2020
BF	_____	AM 001-FTG FOOTING Comments1: ABBY PROP 365-7229	20200698	885 GILLESPIE LN			08/26/2020
BF	_____	AM 001-FTG FOOTING Comments1: ABBY PROP 365-7229	20200699	883 GILLESPIE LN			08/26/2020
BF	_____	AM 001-FTG FOOTING Comments1: ABBY PROP 365-7229	20200700	881 GILLESPIE LN			08/26/2020
BF	_____	AM 001-FTG FOOTING Comments1: ABBY PROP 365-7229	20200701	891 GILLESPIE LN			08/26/2020
BC	_____	001-FIN FINAL INSPECTION Comments1: SEE NOTES IN FILE	20200723	522 WINDETT RIDGE RD	172		08/13/2020
PR	_____	007-SUM SUMP	20200724	2195 BLUEBIRD LN	240-2		08/04/2020
PR	_____	008-SUM SUMP					08/25/2020
PR	_____	007-SUM SUMP	20200725	2197 BLUEBIRD LN	240-1		08/04/2020
PR	_____	008-SUM SUMP					08/25/2020
BC	_____	AM 001-FTG FOOTING Comments1: COMEX 847-551-9066	20200729	2010 INGEMUNSON LN	139		08/28/2020



DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 9

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	002-RFR ROUGH FRAMING Comments1: R507.5.2; R507.6.1; JOIST TO BEAM CONNEC Comments2: TION REQUIRES 4PD BOX NAILS TOE NAILED T Comments3: O BEAM	20200733	962 OMAHA DR	27		08/05/2020
BC	_____	001-FIN FINAL INSPECTION Comments1: SOLAR	20200754	445 WINTERBERRY DR	110		08/17/2020
BC	_____	007-PHD POST HOLE - DECK	20200758	2022 INGEMUNSON LN	140		08/17/2020
BC	_____	008-STP STOOP					08/17/2020
BC	_____	010-INS INSULATION					08/28/2020
PR	_____	011-SUM SUMP					08/25/2020
BF	_____	013-FEM ROUGH FRM, ELE, MECH Comments1: PROVIDE NUTS ON ANCHOR BOLTS IN GARAGE, Comments2: BOLTS LOSE ON I-BEAMS IN GARAGE, HANGER Comments3: IN DINING RM 1ST FLOOR PROVIDE NAILS IN Comments4: ALL HOLES OF HANGER, PROVIDE NUTS ON ANC					08/26/2020
PBF	_____	014-PLR PLUMBING - ROUGH Comments1: JEFF 847-456-8082					08/26/2020
PR	_____	007-SUM SUMP Comments1: DONE	20200759	2159 BLUEBIRD LN	237-2	08/07/2020	
PR	_____	008-RFR ROUGH FRAMING					08/24/2020
PR	_____	009-REL ROUGH ELECTRICAL					08/24/2020
PR	_____	010-RMC ROUGH MECHANICAL					08/24/2020
PR	_____	011-PLR PLUMBING - ROUGH					08/24/2020
PR	_____	012-SUM SUMP					08/25/2020
BC	_____	013-INS INSULATION					08/26/2020
PR	_____	007-SUM SUMP	20200760	2161 BLUEBIRD LN	237-1	08/04/2020	
BC	_____	008-INS INSULATION					08/24/2020
PR	_____	009-RFR ROUGH FRAMING					08/20/2020
PR	_____	010-SUM SUMP					08/25/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 10

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
GH	10:00	001-ROF ROOF UNDERLAYMENT ICE & W	20200784	219 W KENDALL DR	15		08/25/2020
BC	_____	002-BND POOL BONDING	20200785	2881 OLD GLORY DR	245		08/11/2020
GH	11:15	001-PHF POST HOLE - FENCE	20200796	2910 ELLSWORTH DR	372		08/10/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20200817	2955 ELLSWORTH DR	406		08/06/2020
PR	_____	007-SUM SUMP	20200823	2192 BLUEBIRD LN	241-1		08/04/2020
PR	_____	007-SUM SUMP	20200824	2194 BLUEBIRD LN	241-2		08/04/2020
BC	_____	001-BND POOL BONDING	20200825	1902 CANDLEBERRY LN	35		08/03/2020
BC	_____	002-TRN TRENCH - (GAS, ELECTRIC,					08/03/2020
GH	13:00	001-PHF POST HOLE - FENCE	20200826	3121 REHBEHN CT	640		08/10/2020
GH	15:00	001-PHF POST HOLE - FENCE	20200829	2543 LYMAN LOOP			08/07/2020
PR	_____	001-PPS PRE-POUR, SLAB ON GRADE	20200835	536 W BARBERRY CIR	70		08/20/2020
BC	_____	001-FTG FOOTING	20200844	2046 INGEMUNSON LN	142		08/25/2020
BC	_____	004-FIN FINAL INSPECTION	20200852	2583 LYMAN LOOP	38		08/03/2020
BC	_____	007-STP STOOP	20200863	584 MANCHESTER LN	384		08/07/2020
PR	_____	008-SUM SUMP					08/20/2020
PR	_____	009-RFR ROUGH FRAMING					08/24/2020
BC	_____	010-INS INSULATION					08/26/2020
		Comments1: CAULK UNDER JACK STUDS EAST SIDE OF PATI					
		Comments2: O DOOR					
BF	_____	007-STP STOOP	20200895	2104 HARTFIELD AVE	349		08/27/2020
		Comments1: COMEX 847-551-9066					
PR	_____	001-FIN FINAL INSPECTION	20200897	545 KELLY AVE	10		08/03/2020
BC	_____	004-BKF BACKFILL	20200904	803 ALEXANDRA LN	9		08/04/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/19/2020
PR	_____	PM 004-SEW SEWER INSPECTION	20200907	2174 BLUEBIRD LN	242		08/03/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/10/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 11

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	006-BSM BASEMENT FLOOR					08/14/2020
PR	_____	PM 004-SEW SEWER INSPECTION	20200908	2172 BLUEBIRD LN	242		08/03/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/10/2020
BC	_____	006-BSM BASEMENT FLOOR					08/14/2020
PR	_____	010-WAT WATER					08/03/2020
PR	_____	003-WAT WATER	20200912	1109 HAWK HOLLOW DR	310-1		08/03/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/10/2020
BC	_____	PM 006-BSM BASEMENT FLOOR					08/13/2020
PR	_____	003-WAT WATER	20200913	1111 HAWK HOLLOW DR	310-2		08/03/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/10/2020
PR	_____	003-WAT WATER	20200914	1121 HAWK HOLLOW DR	310-3		08/03/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/10/2020
PR	_____	003-WAT WATER	20200915	1123 HAWK HOLLOW DR	310-4		08/03/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/10/2020
BC	_____	002-FOU FOUNDATION	20200917	1054 CANARY AVE	243-1		08/04/2020
BC	_____	003-BKF BACKFILL					08/10/2020
PR	_____	004-SEW SEWER INSPECTION					08/10/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/19/2020
BC	_____	006-BSM BASEMENT FLOOR					08/27/2020
BC	_____	002-FOU FOUNDATION	20200918	1052 CANARY AVE	243-2		08/04/2020
BC	_____	003-BKF BACKFILL					08/10/2020
PR	_____	004-SEW SEWER INSPECTION					08/10/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/19/2020
BC	_____	006-BSM BASEMENT FLOOR					08/27/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 12

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BF	11:00	001-ROF ROOF UNDERLAYMENT ICE & W	20200926	542 HEARTLAND DR	184		08/31/2020
BC	_____	002-BND POOL BONDING	20200927	1554 CRIMSON LN	3		08/06/2020
BC	_____	003-PPS PRE-POUR, SLAB ON GRADE Comments1: POOL APRON					08/06/2020
GH	11:00	004-PHF POST HOLE - FENCE					08/13/2020
BC	_____	002-RFR ROUGH FRAMING	20200929	403 CENTER PKWY	22		08/10/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE Comments1: INCREASE SLOPE ON WEST SIDE TO DRAIN RAI Comments2: N WATER	20200933	2671 BURR ST	87		08/06/2020
BC	_____	003-BKF BACKFILL	20200934	2057 SQUIRE CIR	211		08/06/2020
PR	_____	AM 004-WAT WATER					08/06/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/12/2020
BC	_____	006-BSM BASEMENT FLOOR					08/11/2020
BC	_____	007-STP STOOP					08/14/2020
BC	_____	001-FTG FOOTING	20200935	2803 GAINS CT	183		08/19/2020
BC	_____	002-FOU FOUNDATION					08/20/2020
PR	_____	004-WAT WATER					08/27/2020
BC	_____	PM 001-FOU FOUNDATION	20200936	2038 SQUIRE CIR	194		08/05/2020
BC	_____	002-BKF BACKFILL Comments1: DELTA M9 SHEETING NOT INSTALLED IN ACCOR Comments2: DANCE WITH MFG INSTR. MOLD CAP NOT SEALE Comments3: D, SPLICE NOT APPROPRIATE, END OF RUN IN Comments4: GAR NOT SEALED					08/12/2020
PR	_____	003-PLU PLUMBING - UNDERSLAB					08/18/2020
PR	_____	AM 004-WAT WATER					08/13/2020
BC	_____	005-BKF BACKFILL					08/14/2020
BC	_____	PM 006-BSM BASEMENT FLOOR					08/18/2020
BC	_____	AM 007-STP STOOP					08/21/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 13

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	AM 001-PPS PRE-POUR, SLAB ON GRADE	20200939	3102 LAUREN DR	107		08/20/2020
GH	_____	002-FIN FINAL INSPECTION	20200942	402 W CENTER ST			08/03/2020
BC	_____	006-BSM BASEMENT FLOOR	20200957	481 HAZELTINE WAY	10		08/03/2020
BC	_____	007-EPW ENGINEERING- PUBLIC WALK Comments1: PUB WALK & STOOPS					08/28/2020
BC	_____	001-FIN FINAL INSPECTION Comments1: CONTINGENT UPON INSTAL OF TRASH PIPE IN Comments2: GAS LINE TO PREVENT DAMAGE TO GENERATOR. Comments3: FORWAR PICTURE TO 630-470-1440	20200960	463 NORWAY CIR	80		08/05/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20200963	2679 LILAC WAY	319		08/19/2020
GH	11:00	001-PHF POST HOLE - FENCE	20200967	2076 HEARTHSTONE AVE	341		08/21/2020
BC	_____	001-FTG FOOTING	20200971	2588 ANNA MARIA LN	589		08/20/2020
BC	_____	002-FOU FOUNDATION					08/26/2020
PR	13:00	003-WAT WATER					08/31/2020
PR	13:00	004-ESS ENGINEERING - STORM					08/31/2020
BC	_____	001-FTG FOOTING	20200972	2578 ANNA MARIA LN	590	08/18/2020	
BC	_____	002-FOU FOUNDATION					08/20/2020
BC	_____	003-BKF BACKFILL					08/26/2020
PR	13:00	004-WAT WATER					08/31/2020
PR	13:00	005-ESS ENGINEERING - STORM					08/31/2020
BC	_____	001-FTG FOOTING	20200973	2568 ANNA MARIA LN	591		08/12/2020
BC	_____	002-FOU FOUNDATION					08/18/2020
BC	_____	003-BKF BACKFILL					08/21/2020
PR	13:00	004-WAT WATER					08/31/2020
PR	13:00	005-ESS ENGINEERING - STORM					08/31/2020
BC	_____	001-FTG FOOTING	20200974	2558 ANNA MARIA LN	592		08/14/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 14

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	002-FOU FOUNDATION					08/18/2020
BC	_____	003-BKF BACKFILL					08/21/2020
PR	13:00	004-WAT WATER					08/31/2020
PR	13:00	005-ESS ENGINEERING - STORM					08/31/2020
BC	_____	001-FTG FOOTING	20200975	2548 ANNA MARIA LN	593		08/04/2020
BC	_____	002-FOU FOUNDATION Comments1: CANCEL				08/13/2020	
BC	_____	003-FOU FOUNDATION					08/14/2020
BC	_____	004-BKF BACKFILL					08/18/2020
PR	13:00	006-WAT WATER					08/31/2020
PR	13:00	007-ESS ENGINEERING - STORM					08/31/2020
BC	_____	001-FTG FOOTING	20200976	2538 ANNA MARIA LN	594		08/04/2020
BC	_____	002-FOU FOUNDATION					08/11/2020
PR	14:00	003-WAT WATER Comments1: STORM					08/17/2020
BC	_____	004-BKF BACKFILL					08/18/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/20/2020
BC	_____	001-FIN FINAL INSPECTION	20200979	2367 WINTERTHUR GREEN	184		08/18/2020
BC	_____	001-FEM ROUGH FRM, ELE, MECH Comments1: VIRTUAL BY PHOTO	20200980	2998 ELLSWORTH DR	344		08/14/2020
GH	_____	003-FIN FINAL INSPECTION	20200981	410 POPLAR DR			08/04/2020
BC	_____	002-RFR ROUGH FRAMING Comments1: MOVE GATE LATCH RELEASE MECHANISM TO 54" Comments2: FROM GRADE BEFORE FINAL INSPECTION	20200984	488 HONEYSUCKLE LN	164		08/11/2020
PR	_____	PM 004-SEW SEWER INSPECTION	20200992	581 WARBLER LN	352		08/03/2020
PR	_____	AM 005-PLU PLUMBING - UNDERSLAB					08/06/2020
PR	_____	006-BSM BASEMENT FLOOR					08/06/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 15

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
PR	_____	007-SUM SUMP					08/25/2020
BC	_____	012-GAR GARAGE FLOOR					08/06/2020
BC	_____	002-FOU FOUNDATION	20200993	656 MANCHESTER LN	381		08/03/2020
BC	_____	003-BKF BACKFILL					08/06/2020
PR	_____	004-SEW SEWER INSPECTION					08/10/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/12/2020
BC	_____	006-BSM BASEMENT FLOOR					08/17/2020
PR	_____	007-SUM SUMP					08/25/2020
PR	_____	009-WAT WATER					08/10/2020
PR	_____	PM 003-ESW ENGINEERING - SEWER / WAT	20200994	632 COACH RD	401	08/03/2020	
		Comments1: CANCELLED					
PR	_____	004-SEW SEWER INSPECTION					08/04/2020
PR	_____	AM 005-PLU PLUMBING - UNDERSLAB					08/06/2020
BC	_____	006-BSM BASEMENT FLOOR					08/07/2020
PR	_____	007-SUM SUMP					08/25/2020
BC	_____	001-BND POOL BONDING	20200999	708 CLOVER CT	12		08/17/2020
		Comments1: PARTIAL APPROVED FOR PRE POUR OF POOL DE					
		Comments2: CK ONLY					
GH	11:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201000	2442 EMERALD LANE	21		08/21/2020
BC	_____	005-BSM BASEMENT FLOOR	20201002	1423 WOODSAGE AVE	22		08/28/2020
		Comments1: PH DECK					
PR	_____	006-PLU PLUMBING - UNDERSLAB					08/27/2020
GH	11:00	001-PHF POST HOLE - FENCE	20201003	2583 OVERLOOK CT	23		08/07/2020
BC	_____	PM 002-FOU FOUNDATION	20201005	582 COACH RD	404		08/05/2020
BC	_____	003-BKF BACKFILL					08/07/2020
PR	_____	004-SEW SEWER INSPECTION					08/10/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 16

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/19/2020
BC	_____	006-BSM BASEMENT FLOOR					08/20/2020
BC	_____	003-BKF BACKFILL	20201006	593 MANCHESTER LN	400		08/06/2020
PR	_____	004-SEW SEWER INSPECTION					08/10/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB					08/12/2020
BC	_____	006-BSM BASEMENT FLOOR					08/14/2020
PR	_____	007-SUM SUMP					08/25/2020
BC	_____	AM 001-FTG FOOTING Comments1: EXTEND UFER IN FOOTING BY 5'	20201007	2112 HARTFIELD AVE	348		08/06/2020
BC	_____	002-FOU FOUNDATION					08/13/2020
PR	_____	PM 003-ESW ENGINEERING - SEWER / WAT				08/18/2020	
PR	_____	004-PLU PLUMBING - UNDERSLAB					08/21/2020
BC	_____	005-PPS PRE-POUR, SLAB ON GRADE Comments1: GAR, BSM, CRAWL					08/25/2020
GH	11:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201016	502 REDHORSE LN	132		08/07/2020
PR	_____	001-RFR ROUGH FRAMING	20201023	110 E COUNTRYSIDE PKWY			08/04/2020
BC	_____	001-FIN FINAL INSPECTION Comments1: BOND TO SHELL, MOVE GATE RELEASE MECHANI Comments2: SM TO 54" GATES MUST BE SELF CLOSING, SE Comments3: LF LATCHING.	20201029	1705 CANDLEBERRY LN	22		08/28/2020
BC	_____	PM 002-REI REINSPECTION					08/31/2020
BC	_____	001-FTG FOOTING	20201032	2072 SQUIRE CIR	184		08/19/2020
BC	_____	002-FOU FOUNDATION					08/20/2020
BC	_____	004-BKF BACKFILL					08/25/2020
PR	_____	005-WAT WATER					08/27/2020
BC	_____	001-FTG FOOTING	20201052	2032 SQUIRE CIR	196		08/26/2020
BC	_____	002-FOU FOUNDATION					08/27/2020



DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 17

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
BC	_____	PM 003-BKF BACKFILL					08/31/2020
GH	11:30	001-PHF POST HOLE - FENCE	20201054	2325 TITUS DR	257		08/21/2020
GH	_____	003-FIN FINAL INSPECTION	20201055	2876 CRANSTON CIR	92		08/05/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20201058	2225 LAVENDER WAY	69		08/13/2020
GH	11:00	001-PHF POST HOLE - FENCE	20201060	4545 MARQUETTE ST	1249		08/14/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20201061	3125 REHBEHN CT	641		08/04/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20201067	3133 REHBEHN CT	643		08/26/2020
BC	_____	001-FIN FINAL INSPECTION	20201068	2486 ELLSWORTH CT	354	08/26/2020	
GH	13:00	001-PHF POST HOLE - FENCE	20201076	302 PARK ST			08/19/2020
GH	13:30	001-ROF ROOF UNDERLAYMENT ICE & W	20201078	2779 GOLDENROD DR	231		08/13/2020
PR	_____	005-PLU PLUMBING - UNDERSLAB	20201082	4248 E MILLBROOK CIR	284		08/04/2020
BC	_____	006-BSM BASEMENT FLOOR					08/05/2020
BC	_____	007-INS INSULATION					08/28/2020
BF	_____	008-RFR ROUGH FRAMING					08/26/2020
		Comments1: 2 HANGERS IN BASEMENT FOR DOUBLEFOR DOUB					
		Comments2: LE JOIST NOT INSTALLED CORRECT NEED TO R					
		Comments3: EPLACE. WILL CHECK AT INSULATION INSPECT					
		Comments4: ION. OK TO INSULATE APPROVED AS NOTED.					
PBF	_____	009-PLR PLUMBING - ROUGH					08/26/2020
		Comments1: JIM 331-223-6615					
BC	_____	011-GAR GARAGE FLOOR					08/06/2020
GH	13:00	001-PHF POST HOLE - FENCE	20201083	2684 PATRIOT CT	221		08/18/2020
BC	_____	002-FIN FINAL INSPECTION	20201086	2539 EMERALD LN	125		08/26/2020
		Comments1: PAVERS					
GH	09:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201099	302 JOHNSON ST			08/07/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20201102	2523 MADDEN CT	5		08/21/2020
GH	_____	001-FIN FINAL INSPECTION	20201105	401 SANDERS CT	0		08/04/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 18

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
GH	10:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201110	905 BLUESTEM DR	33		08/10/2020
		Comments1: PARTIAL 1/2					
GH	10:00	002-ROF ROOF UNDERLAYMENT ICE & W					08/11/2020
		Comments1: PARTIAL 2/2					
BC	_____	AM 001-FTG FOOTING	20201113	586 COACH RD	403		08/06/2020
BC	_____	002-FOU FOUNDATION					08/10/2020
PR	_____	003-ESW ENGINEERING - SEWER / WAT					08/18/2020
PR	_____	004-PLU PLUMBING - UNDERSLAB					08/20/2020
BC	_____	005-PPS PRE-POUR, SLAB ON GRADE					08/27/2020
		Comments1: BASEMENT, GARAGE & CRAWL					
BC	_____	AM 001-PPS PRE-POUR, SLAB ON GRADE	20201122	1558 SIENNA DR	74		08/31/2020
		Comments1: PATIO					
GH	11:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201125	641 OMAHA DR	10		08/03/2020
		Comments1: PARTIAL					
GH	11:00	002-ROF ROOF UNDERLAYMENT ICE & W					08/04/2020
		Comments1: PARTIAL					
GH	11:30	001-ROF ROOF UNDERLAYMENT ICE & W	20201126	2848 MCLELLAN BLVD	455		08/04/2020
		Comments1: PARTIAL					
GH	11:00	002-ROF ROOF UNDERLAYMENT ICE & W					08/05/2020
		Comments1: PARTIAL					
GH	10:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201129	2431 SUMAC DR	184		08/11/2020
		Comments1: INSPECTED FRONT ONLY - BACK ALREADY SHIN					
		Comments2: GLED (SCHEDULED FOR TOMORROW)					
GH	_____	001-ROF ROOF UNDERLAYMENT ICE & W	20201131	1237 WALSH DR	123		08/06/2020
GH	10:30	001-ROF ROOF UNDERLAYMENT ICE & W	20201132	1178 HEARTLAND DR	139		08/12/2020
BC	_____	AM 001-PHD POST HOLE - DECK	20201135	901 BLACKBERRY SHORE LN	24		08/31/2020
BC	_____	001-FTG FOOTING	20201137	2235 FAIRFAX WAY	378		08/14/2020
BC	_____	AM 002-FOU FOUNDATION					08/18/2020
PR	_____	003-ESW ENGINEERING - SEWER / WAT					08/24/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 19

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
GH	11:00	001-PHF POST HOLE - FENCE	20201138	2849 OLD GLORY DR	239		08/10/2020
BC	_____ AM	001-PPS PRE-POUR, SLAB ON GRADE	20201139	4228 E MILLBROOK CIR	287		08/21/2020
BC	_____	001-FTG FOOTING	20201140	2032 WHITEKIRK LN	48		08/26/2020
BC	_____	001-FTG FOOTING	20201141	2020 WREN RD	32		08/21/2020
BF	_____ AM	002-FOU FOUNDATION Comments1: UPLAND 630-453-9281					08/28/2020
BC	_____	001-FIN FINAL INSPECTION Comments1: Windows	20201142	484 E BARBERRY CIR	142		08/13/2020
GH	11:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201143	1404 JOHN ST	50		08/04/2020
GH	11:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201145	1887 WALSH DR	48		08/11/2020
GH	11:00	001-ROF ROOF UNDERLAYMENT ICE & W Comments1: PARTIAL - BACK & RIGHT SIDE	20201146	1262 SPRING ST	190		08/06/2020
GH	11:00	002-ROF ROOF UNDERLAYMENT ICE & W					08/07/2020
BC	09:30	001-OCC OCCUPANCY INSPECTION Comments1: ELEC BREAKER PANEL NOT LABELED, NO HOT W Comments2: ATER, FALL OF OVER 30" AT FRONT DOOR UNG Comments3: UARDED	20201147	108 W VAN EMMON			08/07/2020
BKF	_____	002-OCC OCCUPANCY INSPECTION				08/06/2020	
PR	13:00	001-OCC OCCUPANCY INSPECTION	20201148	201 GARDEN ST	3		08/11/2020
BKF	_____	002-OCC OCCUPANCY INSPECTION					08/11/2020
PR	_____	001-ESW ENGINEERING - SEWER / WAT	20201150	358 WESTWIND DR	10		08/06/2020
BC	_____	002-FTG FOOTING					08/10/2020
BC	_____	003-FOU FOUNDATION					08/12/2020
BC	_____	004-BKF BACKFILL					08/18/2020
BC	_____	001-TRN TRENCH - (GAS, ELECTRIC,	20201151	903 BEHRENS ST	30		08/25/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE Comments1: NEED TO PIN PATIO TO FOUNDATION	20201153	2002 DEERPOINT LN			08/27/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20201158	3163 MATLOCK DR	658		08/17/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 20

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
GH	12:30	001-PHF POST HOLE - FENCE	20201159	2881 OLD GLORY DR	245		08/20/2020
BC		001-PPS PRE-POUR, SLAB ON GRADE Comments1: PATIO	20201162	4652 PLYMOUTH AVE	987		08/25/2020
GH	11:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201163	1106 HEARTLAND DR	147		08/11/2020
BC	08:00	001-FOU FOUNDATION	20201165	812 BRISTOL AVE	7		08/14/2020
PR		002-ESW ENGINEERING - SEWER / WAT					08/12/2020
BC		003-FTG FOOTING					08/12/2020
BC		004-BKF BACKFILL Comments1: BRACE 8' WALLS PRIOR TO BACKFILL					08/20/2020
PR		005-PLU PLUMBING - UNDERSLAB					08/25/2020
PR	11:00	001-ESW ENGINEERING - SEWER / WAT	20201166	801 ALEXANDRA LN	8		08/24/2020
BC		AM 002-FTG FOOTING					08/26/2020
BC		003-FOU FOUNDATION					08/28/2020
BC		001-FTG FOOTING	20201167	2501 ANNA MARIA LN	712		08/25/2020
BC		AM 002-FOU FOUNDATION					08/31/2020
BC		AM 001-FTG FOOTING	20201170	2531 ANNA MARIA LN	715		08/31/2020
GH	11:30	001-ROF ROOF UNDERLAYMENT ICE & W Comments1: PARTIAL 1/2	20201179	515 W FOX RD			08/13/2020
GH	11:30	002-ROF ROOF UNDERLAYMENT ICE & W Comments1: PARTIAL 2/2					08/14/2020
GH	10:00	001-ROF ROOF UNDERLAYMENT ICE & W Comments1: PARTIAL 1/2	20201180	1987 WILD INDIGO LN	9		08/10/2020
GH	09:00	002-ROF ROOF UNDERLAYMENT ICE & W Comments1: PARTIAL 2/2					08/11/2020
GH	09:30	001-PHF POST HOLE - FENCE	20201184	2469 CATALPA TR	173		08/12/2020
GH	14:00	001-PHF POST HOLE - FENCE	20201185	1210 CANNONBALL TR	2		08/11/2020
BF	11:00	001-ROF ROOF UNDERLAYMENT ICE & W Comments1: 11AM-12PM GARRETT 877-585-7850	20201187	162 BERTRAM DR	1647		08/31/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 21

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
GH	10:30	001-ROF ROOF UNDERLAYMENT ICE & W	20201198	1366 SPRING ST	219		08/14/2020
GH	13:00	001-PHF POST HOLE - FENCE	20201199	2024 SQUIRE CIR	198		08/21/2020
BC	_____	001-FTG FOOTING	20201202	576 MANCHESTER LN	385		08/25/2020
BF	_____	AM 002-FOU FOUNDATION Comments1: COMEX 847-551-9066				08/28/2020	
BC	14:00	001-PHF POST HOLE - FENCE Comments1: CANCELLED	20201203	3212 LAUREN DR	117	08/31/2020	
GH	12:30	001-ROF ROOF UNDERLAYMENT ICE & W Comments1: PARTIAL - BACK ONLY	20201205	1267 WALSH DR	122		08/11/2020
GH	12:30	002-ROF ROOF UNDERLAYMENT ICE & W					08/12/2020
BC	10:00	001-PPS PRE-POUR, SLAB ON GRADE	20201208	1420 ASPEN LN	115		08/14/2020
GH	09:30	001-ROF ROOF UNDERLAYMENT ICE & W	20201209	561 OMAHA DR	6		08/21/2020
BC	_____	AM 001-PPS PRE-POUR, SLAB ON GRADE Comments1: BOX AROUND SUMP DRAIN	20201213	904 ADRIAN ST			08/20/2020
BC	_____	AM 001-PPS PRE-POUR, SLAB ON GRADE Comments1: PATIO	20201220	301 E MAIN ST			08/18/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20201224	3352 CALEDONIA DR	145		08/20/2020
GH	_____	001-FIN FINAL INSPECTION	20201232	1844 COLUMBINE DR	80		08/19/2020
BC	_____	AM 001-PPS PRE-POUR, SLAB ON GRADE	20201234	1084 HAMPTON LN	259		08/18/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE	20201240	1122 MIDNIGHT PL	306	08/24/2020	
GH	13:00	001-PHF POST HOLE - FENCE	20201245	385 SHADOW WOOD DR	122		08/24/2020
GH	10:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201247	451 E BARBERRY CIR	150		08/20/2020
GH	11:30	001-ROF ROOF UNDERLAYMENT ICE & W	20201255	1145 HEARTLAND DR	55		08/19/2020
GH	10:30	001-ROF ROOF UNDERLAYMENT ICE & W	20201258	265 WALSH CIR	30		08/19/2020
GH	12:00	001-ROF ROOF UNDERLAYMENT ICE & W Comments1: BACK & RIGHT SIDE	20201264	881 OMAHA DR	22		08/20/2020
GH	12:30	002-ROF ROOF UNDERLAYMENT ICE & W				08/21/2020	

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 22

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
GH	12:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201265	2184 KINGSMILL ST	119		08/24/2020
GH	11:30	001-ROF ROOF UNDERLAYMENT ICE & W	20201268	568 W BARBERRY CIR	63		08/20/2020
BC	_____ AM	001-PPS PRE-POUR, SLAB ON GRADE	20201271	3203 PINWOOD DR	25		08/25/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE Comments1: COMPACT WEST SIDE OF BASE BEFORE POURING	20201272	1122 MIDNIGHT PL	306		08/21/2020
GH	11:00	001-ROF ROOF UNDERLAYMENT ICE & W Comments1: NO ONE WORKING	20201273	2349 SUMAC DR	21		08/26/2020
GH	11:00	002-ROF ROOF UNDERLAYMENT ICE & W					08/27/2020
GH	11:00	001-ROF ROOF UNDERLAYMENT ICE & W	20201319	1838 COLUMBINE DR	81		08/24/2020
BF	10:00	001-ROF ROOF UNDERLAYMENT ICE & W Comments1: A&R 630-688-5671	20201320	1609 COTTONWOOD TRAIL			08/31/2020
BC	_____	001-PPS PRE-POUR, SLAB ON GRADE Comments1: EAST SIDE OF FORM SLOPES TO HOME,PIN PAT Comments2: IO TO FOUNDATION, COVER BAND JOIST WITH Comments3: MEMBRANE BEFORE POURING	20201332	1252 WALSH DR			08/31/2020
GH	09:30	001-ROF ROOF UNDERLAYMENT ICE & W	20201334	422 ELM ST			08/26/2020
PBF	_____ AM	001-SEW SEWER INSPECTION Comments1: ROLANDO 630-417-9588 **CALL WHEN ON YOUR Comments2: WAY**	20201335	2842 SILVER SPRINGS CT	254		08/26/2020

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 23

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
-----							
PERMIT TYPE SUMMARY:		AGP ABOVE-GROUND POOL			5		
		BSM BASEMENT REMODEL			1		
		CCO COMMERCIAL OCCUPANCY PERMIT			4		
		COM COMMERCIAL BUILDING			13		
		CRM COMMERCIAL REMODEL			1		
		DCK DECK			7		
		DRV DRIVEWAY			1		
		FNC FENCE			21		
		GEN STAND BY GENERATOR			1		
		IGP IN-GROUND POOL			8		
		MSC MISCELLANEOUS			1		
		PRG PERGOLA			1		
		PTO PATIO / PAVERS			23		
		REP REPAIR			4		
		ROF ROOFING			41		
		RPZ RPZ - BACKFLOW PREVENTION			1		
		RS ROOFING & SIDING			6		
		SFA SINGLE-FAMILY ATTACHED			76		
		SFD SINGLE-FAMILY DETACHED			240		
		SHD SHED/ACCESSORY BUILDING			2		
		SID SIDING			2		
		SOL SOLAR PANELS			1		
		WIN WINDOW REPLACEMENT			2		
INSPECTION SUMMARY:		ABC ABOVE CEILING			2		
		BKF BACKFILL			23		
		BND POOL BONDING			5		
		BSM BASEMENT FLOOR			18		
		EFL ENGINEERING - FINAL INSPECTION			8		
		ELS ELECTRIC SERVICE			2		
		EPW ENGINEERING- PUBLIC WALK			12		
		ESS ENGINEERING - STORM			5		
		ESW ENGINEERING - SEWER / WATER			8		
		FEM ROUGH FRM, ELE, MECH			2		
		FIN FINAL INSPECTION			45		
		FOU FOUNDATION			29		
		FTG FOOTING			32		
		GAR GARAGE FLOOR			4		
		INS INSULATION			15		
		OCC OCCUPANCY INSPECTION			4		
		PHD POST HOLE - DECK			2		
		PHF POST HOLE - FENCE			18		
		PLF PLUMBING - FINAL OSR READY			21		
		PLR PLUMBING - ROUGH			4		
		PLU PLUMBING - UNDERSLAB			28		
		PPS PRE-POUR, SLAB ON GRADE			36		
		PWK PRIVATE WALKS			11		

DATE: 09/29/2020  
TIME: 12:09:04  
ID: PT4A0000.WOW

UNITED CITY OF YORKVILLE  
CALLS FOR INSPECTION REPORT

PAGE: 24

INSPECTIONS SCHEDULED FROM 08/01/2020 TO 08/31/2020

INSPECTOR	TIME	TYPE OF INSPECTION	PERMIT	ADDRESS	LOT	SCHED. DATE	COMP. DATE
-----							
		REI REINSPECTION		3			
		REL ROUGH ELECTRICAL		2			
		RFR ROUGH FRAMING		18			
		RMC ROUGH MECHANICAL		3			
		ROF ROOF UNDERLAYMENT ICE & WATER		42			
		RPZ PLUMBING - RPZ VALVE		1			
		SEW SEWER INSPECTION		10			
		STP STOOP		7			
		SUM SUMP		19			
		TRN TRENCH - (GAS, ELECTRIC, ETC)		2			
		UGE UNDERGROUND ELECTRIC		1			
		WAT WATER		20			
INSPECTOR SUMMARY:		BC BOB CREADEUR		201			
		BF B&F INSPECTOR CODE SERVICE		19			
		BKF BRISTOL KENDALL FIRE DEPT		3			
		EEI ENGINEERING ENTERPRISES		9			
		GH GINA HASTINGS		64			
		PBF BF PLUMBING INSPECTOR		7			
		PR PETER RATOS		159			
STATUS SUMMARY:	A	GH		2			
	C	BC		47			
	C	BF		3			
	C	BKF		1			
	C	EEI		7			
	C	GH		17			
	C	PBF		2			
	C	PR		37			
	I	BC		152			
	I	BF		16			
	I	BKF		1			
	I	EEI		2			
	I	GH		45			
	I	PBF		5			
	I	PR		119			
	T	BC		2			
	T	BKF		1			
	T	PR		3			
REPORT SUMMARY:				462			





Reviewed By:	
Legal	<input type="checkbox"/>
Finance	<input type="checkbox"/>
Engineer	<input type="checkbox"/>
City Administrator	<input checked="" type="checkbox"/>
Human Resources	<input type="checkbox"/>
Community Development	<input checked="" type="checkbox"/>
Police	<input type="checkbox"/>
Public Works	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>

Agenda Item Number

New Business #3

Tracking Number

EDC 2020-45

### Agenda Item Summary Memo

**Title:** Property Maintenance Report for August 2020

**Meeting and Date:** Economic Development Committee – October 6, 2020

**Synopsis:** \_\_\_\_\_  
\_\_\_\_\_

#### Council Action Previously Taken:

Date of Action: \_\_\_\_\_ Action Taken: \_\_\_\_\_

Item Number: \_\_\_\_\_

**Type of Vote Required:** Informational

**Council Action Requested:** None

**Submitted by:** Pete Ratos Community Development  
Name Department

#### Agenda Item Notes:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Have a question or comment about this agenda item?*

Call us Monday-Friday, 8:00am to 4:30pm at 630-553-4350, email us at [agendas@yorkville.il.us](mailto:agendas@yorkville.il.us), post at [www.facebook.com/CityofYorkville](https://www.facebook.com/CityofYorkville), tweet us at @CityofYorkville, and/or contact any of your elected officials at <http://www.yorkville.il.us/320/City-Council>



# Memorandum

To: Economic Development Committee  
From: Pete Ratos, Code Official  
CC: Bart Olson, Krysti Barksdale-Noble, Lisa Pickering  
Date: September 1, 2020  
Subject: August Property Maintenance

---

## Property Maintenance Report August 2020

### Adjudication:

1 Property Maintenance Case heard in August

**8/24/2020**

N 4246	4100 N Bridge St	Watering	Dismissed
--------	------------------	----------	-----------



## Case Report

08/01/2020 - 08/31/2020

Case #	Case Date	ADDRESS OF COMPLAINT	TYPE OF VIOLATION	STATUS	VIOLATION LETTER SENT	FOLLOW UP STATUS	CITATION ISSUED	DATE OF HEARING	POSTED	FINDINGS	PUBLIC WORKS TO MOW
20200408	8/27/2020	568 Redbud Dr	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200407	8/26/2020	728 E Veterans Pkwy	Weeds, Branches & Dead Trees	IN VIOLATION							
20200406	8/26/2020	303 Fontana Dr	Weeds & Grass	IN VIOLATION							
20200405	8/26/2020	688 Arrowhead Dr	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200404	8/26/2020	418 Elm St	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200403	8/25/2020	206 River St	Junk, Trash & Refuse	CLOSED		COMPLIANT					
20200402	8/25/2020	1047 Homestead Dr	Branches in Street	IN VIOLATION							
20200401	8/25/2020	3223 Pinewood Dr	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200400	8/25/2020	482 Twinleaf Tr	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200399	8/24/2020	3926 Cannonball Tr	Weeds	CLOSED							
20200398	8/24/2020	4100 N Bridge St	Sign Installed without a Permit	IN VIOLATION	8/24/2020						
20200397	8/24/2020	1627 Shetland Ln	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							

20200396	8/24/2020	1152 Midnight Pl	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200395	8/21/2020	3064 Justice Dr	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200394	8/21/2020	2824 Alden Ave	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200393	8/21/2020	2339 Titus Dr	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200392	8/21/2020	1318 Evergreen Ln	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200391	8/21/2020	1319 Evergreen Ln	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200390	8/21/2020	1430 Aspen Ln	Watering Lawn Outside of Permitted Hours of Water Use	IN VIOLATION							
20200389	8/21/2020	1429 Aspen Ln	Working without a Permit	IN VIOLATION							
20200388	8/20/2020	1604 Identa Rd	Noise	TO BE INSPECTED							
20200387	8/18/2020	113 Orange St	Branches	CLOSED							
20200386	8/18/2020	3203 Pinewood Dr	Fence in Disrepair	CLOSED		COMPLIANT					
20200385	8/18/2020	206 River St	Junk, Trash & Refuse	CLOSED		COMPLIANT					
20200384	8/17/2020	Hartfield & Manchester	Damage to Public Street	IN VIOLATION							
20200383	8/17/2020	406 West St	Tree Branches Overhanging Neighboring Home	CLOSED	8/17/2020						
20200382	8/17/2020	206 Wolf St	Weeds	IN VIOLATION	8/17/2020						

20200381	8/17/2020	302 E Fox St	Vehicle Parking	IN VIOLATION							
20200380	8/17/2020	2422 Wythe Pl	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200379	8/17/2020	2009 Shetland Ct	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200378	8/17/2020	2559 Overlook Ct	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200377	8/17/2020	307 Bertram Dr	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200376	8/17/2020	2609 Fairfax Way	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200375	8/17/2020	272 Windett Ridge Road	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200374	8/13/2020	1091 Kate Dr	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200373	8/13/2020	585 Arrowhead Dr	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200372	8/12/2020	511 Yellowstone Ln	Camper	CLOSED							
20200371	8/12/2020	871 Purcell St	Weeds	CLOSED		COMPLIANT					
20200370	8/12/2020	541 Omaha Dr	Weeds	CLOSED		COMPLIANT					
20200369	8/12/2020	622 Birchwood Dr	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200368	8/12/2020	Grande Reserve Lot 309	Junk, Trash & Refuse	IN VIOLATION							

20200367	8/12/2020	1324 Chestnut Ln	Junk, Trash & Refuse	CLOSED		COMPLIANT					
20200366	8/11/2020	471 Windett Ridge Rd	Fallen Tree	CLOSED		COMPLIANT					
20200365	8/11/2020	1888 Wild Indigo Ln	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200364	8/11/2020	308 Ryan Ct	Weeds	IN VIOLATION	8/12/2020		8/19/2020	9/21/2020	8/11/2020		
20200363	8/10/2020	3166 Matlock Dr	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200362	8/7/2020	2603 McLellan Blvd	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200361	8/7/2020	2556 Overlook Ct	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200360	8/6/2020	1100 W Veterans Pkwy	Weeds & Grass	CLOSED		COMPLIANT					
20200359	8/6/2020	889 N Carly Cir	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200358	8/6/2020	881 Omaha Dr	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200357	8/5/2020	1106 Carly Dr	Weeds	CLOSED		COMPLIANT					
20200356	8/5/2020	206 Heustis St	Equipment Stored in ROW & Structural Integrity Issue	IN VIOLATION							
20200355	8/5/2020	1063 Western Ln	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					

20200354	8/5/2020	732 Bluestem Dr	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200353	8/5/2020	1172 Midnight Place	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200352	8/5/2020	309 W FOX ST	WEEDS, GRASS	DUPLICATE							
20200351	8/4/2020	2389 Iroquois Ln	Grass Height (Backyard)	IN VIOLATION							
20200350	8/4/2020	98 E Schoolhouse Road	Abandoned Vehicle	CLOSED		COMPLIANT					
20200349	8/4/2020	748 Fir Ct	Watering Lawn Outside of Permitted Hours of Water Use	CLOSED		COMPLIANT					
20200348	8/4/2020	309 W Fox St	Grass Height	CLOSED		COMPLIANT			8/7/2020		
20200347	8/3/2020	2952 Grande Trail	Working without a Permit	CLOSED		COMPLIANT					
20200346	8/3/2020	Lt 7-5 BLK 6 BLACKS ADD	Weeds	IN VIOLATION							
20200345	8/3/2020	2297 Northland Ln	Car Parked on Grass	CLOSED		COMPLIANT					
20200344	8/3/2020	488 E Barberry Cir	Grass Height	CLOSED		COMPLIANT					
20200343	8/3/2020	478 E Barberry Cir	Grass Height	CLOSED		COMPLIANT					

Total Records: 66

9/1/2020



Reviewed By:	
Legal	<input type="checkbox"/>
Finance	<input type="checkbox"/>
Engineer	<input type="checkbox"/>
City Administrator	<input checked="" type="checkbox"/>
Human Resources	<input type="checkbox"/>
Community Development	<input type="checkbox"/>
Police	<input type="checkbox"/>
Public Works	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>

Agenda Item Number

New Business #4

Tracking Number

EDC 2020-46

### Agenda Item Summary Memo

**Title:** Economic Development Report for September 2020

**Meeting and Date:** Economic Development Committee – October 6, 2020

**Synopsis:** See attached.

### Council Action Previously Taken:

Date of Action: N/A Action Taken: \_\_\_\_\_

Item Number: \_\_\_\_\_

**Type of Vote Required:** \_\_\_\_\_

**Council Action Requested:** \_\_\_\_\_

**Submitted by:** Bart Olson Administration  
Name Department

### Agenda Item Notes:

---

---

---

---

---

*Have a question or comment about this agenda item?*

Call us Monday-Friday, 8:00am to 4:30pm at 630-553-4350, email us at [agendas@yorkville.il.us](mailto:agendas@yorkville.il.us), post at [www.facebook.com/CityofYorkville](https://www.facebook.com/CityofYorkville), tweet us at @CityofYorkville, and/or contact any of your elected officials at <http://www.yorkville.il.us/320/City-Council>





651 Prairie Pointe Drive, Suite 102 • Yorkville, Illinois • 60560

Phone 630-553-0843 • FAX 630-553-0889

Monthly Report – for October 2020 EDC Meeting of the United City of Yorkville

#### September 2020 Activity

##### COVID-19:

- Continuously working with the Small Business Development Center (SBDC), the State of Illinois (DCEO), the State of Illinois Treasurer's Office, and the Small Business Administration (SBA); to collect information for the business community on loans, grants and other programs of assistance. The programs rolled out in late June/early July are the **State of IL BIG Grant program, and the Childcare Restoration Credit Program**. Since these programs focus on very specific businesses, I have personally reached out to all eligible businesses to provide links and info. **Yorkville** actually had a total of nine businesses that received BIG Round 1 Grants. We have been notified that Planet Fitness also received an award. The awards totaled \$150,000. In September Illinois rolled out **the State of IL BIG Grant Round 2**. This program awards up to \$150,000 per business, and is open to many more of our businesses. I have been working with our businesses to assist them in successfully submitting the required documentation and application. We should hear about the awards for this program in a little over a month.
- **The Downstate Small Business Stabilization Program (DSBSP)** has offered a unique opportunity to our business community through the State of Illinois. That application, and overall process is quite lengthy. We have a total of 28 businesses who have moved forward in applying for this grant, which could result in up to \$25,000 for the awardee. The State of Illinois has announced that 11 of 18 businesses in our "group one" will receive an award. The city has not received the funds, as of yet; therefore, the businesses have not yet received the grant dollars. This is the program where the dollars come from the State of Illinois, to the City, and then to the business.
- **Phase 4 of Reopening Illinois**, allows our restaurants to open with both indoor and outdoor seating. Continue to work with all of our local restaurants and businesses as they pivot, to open under current guidelines. I am also working with restaurants to begin to plan for the colder weather, and uncover ways the City can help these businesses to be as successful as possible. We are also working with our businesses to determine who would like to continue to use the tables and barricades.
- The **PPP Program** is now moving into the "Loan Forgiveness" application. This process is even more complex than the application process was. Also, the rules of the program have changed significantly. I am working with individuals from government, banks, and other resources to assist businesses begin to complete the next application.
- Continue to work with the Yorkville Chamber to drive information about our local business and the Phase 4 opening of businesses.
- Locate other grant programs through associations and other organizations, that may assist employees of certain business, and assist in getting information out to these businesses and their employees.
- Personally, spoke with other businesses owners to collect data to assist in City of Yorkville for planning purposes, as requested.
- Participate in weekly tele-conferences with my colleagues from the SBDC, other municipalities of our County, and Kendall County representative to discuss programs, challenges, best practices, and general information.
- Identified, promoted and participated in a variety of Webinars that provided information on various assistance programs, at all levels.

##### New Development:

- Kendall Marketplace: **Verizon...** Construction complete, building turned over to Verizon for final preparation and October opening.
- Kendall Marketplace: **Smoothie King...** Construction is underway. Owner, Yonas Hagos, hopes to open in November 2020.
- Kendall Marketplace: **Signature Fitness...** Owner remains committed to Yorkville location. Opening will take place before the end of the year.
- Yorkville Crossing: **Popeye's...** Business is open, and doing very well. Yorkville loves Popeye's
- **Gas N Wash:** Business is fully open. Ribbon cutting took place on September 25<sup>th</sup>.
- **Raging Waves Waterpark:** Park is now closed for the season. Randy & Dawn Witt are very grateful that they were allowed to open.
- Yorkville Marketplace: **Pho Shack Noodles and Grill**, has officially opened.
- Downtown Yorkville will be welcoming a new addition called "**Hummingbird in a Shoebox**". Owner, Yorkville resident, Brigitte Shepard is planning on officially opening this unique children's boutique by November 1<sup>st</sup>. It is located at 223 S. Bridge Street.

Respectfully submitted,

Lynn Dubajic

651 Prairie Pointe Drive, Suite 102

Yorkville, IL 60560

[lynn@dlkllc.com](mailto:lynn@dlkllc.com)

630-209-7151 cell



Reviewed By:	
Legal	<input checked="" type="checkbox"/>
Finance	<input type="checkbox"/>
Engineer	<input type="checkbox"/>
City Administrator	<input checked="" type="checkbox"/>
Human Resources	<input type="checkbox"/>
Community Development	<input checked="" type="checkbox"/>
Police	<input type="checkbox"/>
Public Works	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>

Agenda Item Number

New Business #5

Tracking Number

EDC 2020-47

### Agenda Item Summary Memo

**Title:** Village of Plainfield Boundary Agreement Extension

**Meeting and Date:** Economic Development Committee – October 6, 2020

**Synopsis:** Update and extension of existing boundary.

### Council Action Previously Taken:

Date of Action: \_\_\_\_\_ Action Taken: \_\_\_\_\_

Item Number: \_\_\_\_\_

**Type of Vote Required:** Majority

**Council Action Requested:** Approval

**Submitted by:** Krysti J. Barksdale-Noble Community Development  
Name Department

### Agenda Item Notes:

See attached memo.



# Memorandum

To: Economic Development Committee  
From: Krysti J. Barksdale-Noble, Community Development Director  
CC: Bart Olson, City Administrator  
Date: September 8, 2020  
Subject: Village of Plainfield Boundary Agreement – Update and Extension

---

## **Summary**

Per the 2016 Comprehensive Plan Update, a short-term goal of the City is to pursue new and extend existing boundary agreements with neighboring communities in an effort to promote and implement effective growth management practices. The proposed boundary agreement extension with the Village of Plainfield, which expires on January 30, 2021, would now expire in the year 2041 and is the third of several existing agreements that are up for renewal and will be presented to the City Council for reconsideration. The City previously approved similar boundary agreement extensions with the municipalities of Sugar Grove in 2016 and the Plano in 2019.

## **Background**

Illinois statute allows municipalities with adopted official plans (comprehensive plans) to enter into a boundary agreement when unincorporated territory is within 1½ miles of the boundaries of two or more corporate authorities. The United City of Yorkville has current boundary agreements with Montgomery, Oswego, Plano, Plainfield and Sugar Grove (refer to attached map).

Other municipalities currently overlapping 1½ mile jurisdiction with Yorkville with whom the City does not have boundary agreements with include Millbrook and Newark. Municipalities that are beyond the contiguous 1½ mile jurisdiction with Yorkville, but likely to encroach this jurisdiction based on their current future planning areas, include Joliet, Lisbon, Millington and Plattville.

The intent of the boundary agreement is to delineate a line which shall mark the boundaries of the respective jurisdiction and agree not to annex any unincorporated land which lies within the jurisdiction of the other municipality as established by such line. Further, Illinois statute requires boundary agreements to:

- Consider the natural flow of storm water drainage of the area;
- Include the entire area of a single tract having common ownership within one jurisdiction, when practical.
- Not exceed a term of 20 years, however, following the expiration of the term it may be extended, renewed, or revised as the parties agree.

## **Advantages and Disadvantages**

Boundary agreements create the opportunity for meaningful future land planning and establish proposed locations of different types of land uses. In addition, boundary agreements can specify infrastructure needs and responsibilities between corporate authorities so that development within the area between each municipality is orderly and efficient. However, there are other advantages and disadvantages to be considered.

*The advantages of entering into boundary agreements include:*

- Eliminating the risk of developers/property owners' ability to obtain concessions from a municipality by pitting neighboring communities against one another;
- Allowing for better land use and infrastructure planning for the area. A determined boundary prevents a municipality from over or undersizing water and sewer lines, for example;
- Reducing negative aspects of 'competing' with neighboring municipalities for territory;
- Allowing for proactive versus reactive planning. While annexation and incorporation put communities in a reactive mode (reacting to a petition from a developer/property owner), cooperative boundary agreements enable communities to proactively guide their future.

*Potential disadvantages to Boundary Agreements include:*

- Agreement obligates future City Council officials to abide by the terms set forth in the boundary agreement for a period of up to twenty (20) years. As witnessed in this region, many changes have occurred over the last 20 years with population growth in the late 1990's early 2000's and then the economic/housing crisis in the mid 2000's, both of which could not have been foreseen by city leaders during either time period.
- Limitation and restriction of property owner's choices as a result of boundary agreements. As stated above, one of the main purposes of entering into an agreement is to prevent property owners from 'pitting' municipalities against one another, however, this also means determining in the agreement what jurisdiction the territory will ultimately be annexed to – thus eliminating the property owners' choice of community.
- Level of compromise. Some concessions may need to be given in order to 'compromise' with a neighboring community in a boundary agreement.

### **Original Village of Plainfield Boundary Agreement**

The original boundary agreement between the United City of Yorkville and the Village of Plainfield, was executed on January 25, 2001 (agreement recorded in February 2001 and ordinance recorded in January 2006), established the following considerations for future development for the unincorporated area between the two communities:

- **The agreed upon boundary between Yorkville and Plainfield would be Grove Road (see attached map).**
  - o The boundary line basically runs north/south beginning at the northern limits of Na-Au-Say Township continuing down the centerline of Grove Road and terminating at Van Dyke Road.
  - o This approximately seven (7) mile boundary has primarily agriculture/farm land with some scattered residential homes on both the Plainfield and Yorkville sides of the boundary. A majority of the land is identified as having a future land use designation of "Agricultural Zone (AZ)" and "Estate/Conservation Residential (ECR)" in Yorkville's 2016 Comprehensive Plan Update.

- **The agreement does not limit or adversely affect either municipality from filing a statutory objection to a proposed rezoning within one and one-half mile (1½) of its corporate boundary.**
  - Since this agreement's execution, staff is not aware of any 1.5-mile reviews that Yorkville or Plainfield has statutorily objected to as part of either's extraterritorial jurisdictional authority.
- **In the event that the Village of Plainfield or the City of Yorkville is better able to provide municipal water or sewer service to a particular parcel or land lying outside its City limits, and annexed or to be annexed to the other City, the municipality better able to provide service shall not refuse service simply because the parcel is not within its City limits and shall not require annexation, but shall, subject to availability and capacity, allow connection to and service from its utility system, subject at all times to the ordinances, fees and charges (uniformly applied) applicable to the providing of services to lands outside of the municipality.**
  - Neither the City of Yorkville nor the Village of Plainfield have utilized this option, but we intend to keep this provision.
- **Both municipalities agree to not file any formal objection with the Chicago Metropolitan Agency for Planning (CMAP – formally Northern Illinois Planning Commission), or other governing body, relative to Facility Planning Area Amendments as long as the proposed amendment does not contradict the Boundary established in the agreement.**
  - Neither the City of Yorkville nor the Village of Plainfield have utilized this option, it is not anticipated that this would be applicable to this agreement since there are few, if any, facility planning area plans that overlap the two (2) municipalities.
- **Both municipalities shall adopt appropriate Ordinances for the protection of well sites and ground water.**
  - Yorkville has adopted numerous ordinances related to the protection of well sites and ground water since the adoption of the boundary agreement in 2001. Those have included:
    - Community Well Protection Ordinance (Ord. 2001-6)
    - Soil Erosion and Sediment Control Ordinance (Ord. 2003-19)
    - Wetland Protection Regulations for Water Quality and Stormwater Management (Ord. 2008-01)
    - Ordinance Prohibiting the Use of Groundwater within the Corporate Limits by the Installation or Drilling of Wells (Ord. 2008-78)
    - Fox River Watershed Ordinance (2009-48)
    - Ordinance Regulating the Illicit Discharge and Connections to the Municipal Separate Storm Sewer System (Ord. 2010-05)
    - Stormwater Management Program Plan (Ord. 2010-13)
    - Blackberry Creek Watershed Ordinance (Res. 2012-17)
    - Stormwater Management Ordinance (Res. 2012-30)
  - It is staff's recommendation that this provision can be deleted in its entirety.

- **Design and future maintenance of Grove Road.**

- Language within the boundary agreement stated the City of Yorkville and the Village of Plainfield would require full improvements to Grove Road as development occurs adjacent to the right-of-way via recapture agreements on a front-foot basis with the property's developers. Additionally, each municipality would coordinate review and design of the roadway.
- Major repairs or maintenance of Grove Road to which both municipalities are contiguous are the time of repair would be on a 50%/50% cost sharing basis.
  - Kendall County has jurisdiction over Grove Road (County Highway 2). According to the Kendall County Highway Department's 2019-2039 Long Range Plan, "it assumes financial cooperation of future developments for capacity improvements of several roadways, including Grove Road. These funds are anticipated through county/municipal cooperation during the annexation phase and can generally be described as development fees. It is the general belief that municipalities will begin to require developers to set aside funds for the future improvement of county transportation corridors that will affect their developments, or they will simply require developers to actually construct the improvements to the County Highway System."<sup>1</sup>
  - According to the Kendall County Highway Department's 2019-2039 Long Range Plan, the County has estimated \$6 million in improvements to Grove Road which includes:

IMPROVEMENT	EST. COST	STATUS
Bridge Replacement south of Van Dyke	\$3,000,000	Ongoing (est. completion 2020)
Intersection Improvement at IL Route 126 (traffic signal)	\$500,000	Programmed for 2023
Intersection Improvement at U.S. Route 52 (turning lanes and traffic signals)	\$1,000,000	Planned to Let in 2021
Intersection Improvement as Reservation with Realignment	\$1,500,000	Programmed for 2024

- Of the approved planned improvements to Grove Road in the Kendall County Highway Department's 2019-2039 Long Range Plan, only IL Route 126 is within the proposed boundary agreement's scope.
- Both the City of Yorkville and the Village of Plainfield agree this provision can be removed from the agreement, as annexation agreements would dictate the contribution towards roadway improvements or construction of required improvements would be completed by developer.

<sup>1</sup> <https://www.co.kendall.il.us/Home/ShowDocument?id=599>

### **Proposed New Plainfield Boundary Agreement**

The proposed updated boundary agreement between the City of Yorkville and the Village of Plainfield would be extended for another twenty (20) year term, or until 2041, and continue most of the same provisions of the exiting agreement. The following are revisions to the current boundary agreement that have been made under the proposed new agreement:

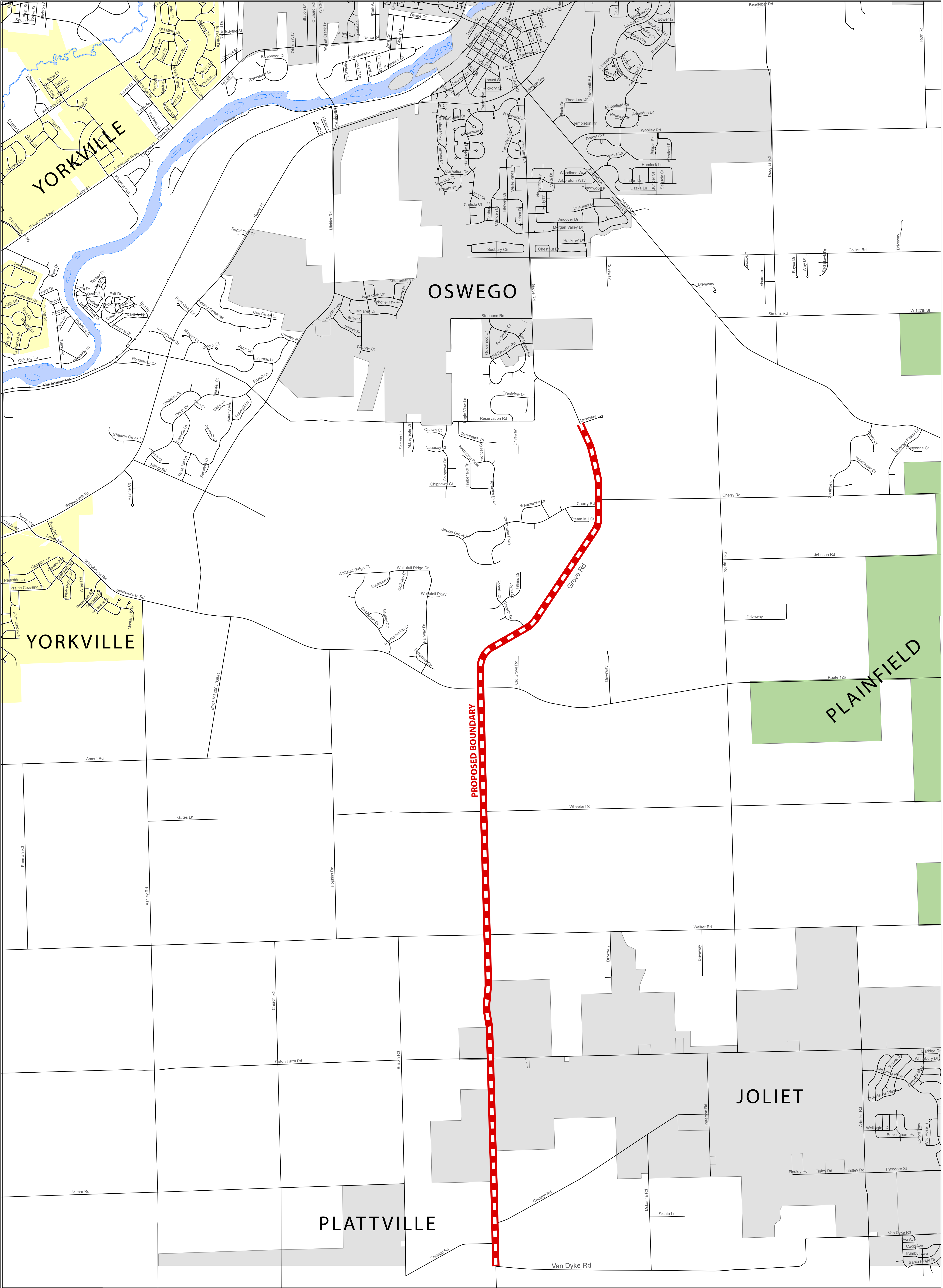
- Paragraph #1 of Original Agreement – Proposed revision states in the new boundary line will extend south from the northernly limit of Na-Au-Say Township, Kendall County, Illinois to Van Dyke Road. This is approximately 0.35 miles south of the previous boundary limits of Chicago Road. This proposed extension of the boundary line's terminus is to remain consistent with the established Oswego/Yorkville boundary line.
- Paragraph #4 of Original Agreement– Proposed revision proposes to remove this section in its entirety, as it is not anticipated that this would be applicable to this agreement since there are few, if any, facility planning area plans that overlap the two (2) municipalities.
- Paragraph #6 of Original Agreement – Proposed revision removes this section in its entirety, as both municipalities have adopted appropriate well sites and groundwater protection ordinances.
- Paragraph #8 and #9 of Original Agreement – Proposed deletion of these paragraphs in their entirety regarding Grove Road as both municipalities' annexation agreements would dictate the contribution towards roadway improvements or construction of required improvements would be completed by developer.


### **Staff Comments & Recommendation**

Staff **recommends adoption** of the proposed Village of Plainfield Boundary Agreement extension for a period of twenty (20) years, or until 2041. This is consistent with the goals of the Comprehensive Plan Update and sound planning practices.

Per the Illinois Statutes, both corporate authorities are required to provide a public notice of the proposed boundary agreement for no less than 15 days at the location where notices are posted for any village board or city council meetings as well as publication within the local newspaper. Staff anticipates publishing a notice in the **October 16th** edition of the Beacon News for a public hearing at the **November 10<sup>th</sup>** City Council meeting. Staff is looking forward to getting the EDC's feedback on this matter and answering any questions at Tuesday night's meeting.





	<b>PROPOSED YORKVILLE/PLAINFIELD BOUNDARY AGREEMENT</b> UNITED CITY OF YORKVILLE, ILLINOIS	
	ADDRESS: 800 Game Farm Road, Yorkville Illinois	DATE: June 30, 2020
	DATA: All permit data and geographic data are property of the United City of Yorkville	
	LOCATION: (I:)//Community Development/Boundary Agreements/Plano Boundary Map	



**JURISDICTIONAL BOUNDARY LINE AGREEMENT BETWEEN THE  
VILLAGE OF PLAINFIELD AND THE UNITED CITY OF YORKVILLE,  
WILL AND KENDALL COUNTIES, ILLINOIS**

**WHEREAS**, the Village of Plainfield, Will and Kendall Counties, Illinois (“*Plainfield*”) is a home-rule municipality pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970 (the “*Constitution*”) and the United City of Yorkville, Kendall County, Illinois (the “*Yorkville*”) is a non-home rule municipality pursuant to the Constitution and the laws of the State of Illinois; and,

**WHEREAS**, both Plainfield and Yorkville, being units of local government, have the authority to enter into agreements among themselves to obtain or share services and to exercise, combine or transfer any power or function in any manner not prohibited by law or ordinances pursuant to Article VII, Section 10 of the Constitution; and,

**WHEREAS**, pursuant to the Constitutional authority as aforesaid, Plainfield and Yorkville entered into a Jurisdictional Boundary Line Agreement, dated January 31, 2001, which recognized that the land lying between their present municipal boundaries is a rapidly developing area in which problems related to open space preservation, flood control, population density, ecological and economic impact and multi-purpose developments are ever increasing both in number and complexity and there is a need and desirability to provide for logical municipal boundaries and areas of municipal authority between these respective municipalities in order to plan effectively and efficiently for the growth and potential development between their communities; and,

**WHEREAS**, Plainfield and Yorkville desire to renew their agreement because the land lying between their present boundaries continue to rapidly develop and cooperation between the municipalities is necessary to address the demands which accompany development for transportation services, utility services and policing; and,

**WHEREAS**, Plainfield and Yorkville have entered into this Agreement as an exercise of their intergovernmental cooperation authority under the Constitution.

**NOW, THEREFORE**, upon the consideration of the mutual promises contained herein and upon the further consideration of the recitals hereinabove set forth, it is hereby agreed between Plainfield and Yorkville, as follows:

1. Plainfield and Yorkville agree that in the unincorporated area lying between the two municipalities, the boundary line for municipal government planning, subdivision control, official map, ordinances, and other municipal purposes shall be as follows:

The centerline of Grove Road from Van Dyke Road, Kendall County, Illinois, extending north beyond Cherry Road, a distance of approximately 7.24 miles (the “*Jurisdictional Boundary Line*”) as depicted on the map attached hereto and made a part hereof.

2. With respect to the property lying westerly of the aforesaid line, Yorkville agrees, and with respect to the property lying easterly of the aforesaid line, Plainfield agrees, that it shall not annex any unincorporated territory nor shall it exercise or attempt to exercise or enforce any zoning subdivision control, official map, or other municipal authority or ordinances, except as may be hereinafter provided in this Agreement.
3. In the event that either Plainfield or Yorkville is better able to provide municipal water or sewer service to a particular parcel of land lying outside its boundaries, and annexed or to be annexed to the other municipality (as to Plainfield lying east of the Jurisdictional Boundary Line, and as to Yorkville, a parcel lying west of the Jurisdictional Boundary Line), the municipality better able to provide service shall not refuse service simply because the parcel is not within its boundaries limits and shall not require annexation, but shall, subject to availability and capacity, allow connection to and service from its utility system, subject at all times to the ordinances, fees and charges (uniformly applied) applicable to the providing of service to lands outside of the municipality.
4. In the event that either municipality's subdivision control authority cannot be exercised on its side of the said Jurisdictional Boundary Line because such municipality is not located within one and one-half (1 ½) miles of a proposed subdivision, and if the other municipality is located within one and one-half miles of said subdivision, then, in those events, each municipality hereby transfers its subdivision control authority to the other municipality pursuant to Section 10, Article VII of the Constitution so that subdivision control can be effected within the subject area as defined herein. In the event that any court of law shall find that the transfer of subdivision control power between units of local government is prohibited by law, then if either municipality cannot exercise its subdivision control on its side of the said boundary because it is not located within one and one-half (1 ½) miles of a proposed subdivision, and if the other municipality is located within one and one-half (1 ½) miles of said subdivision, then the latter municipality shall exercise subdivision control notwithstanding the boundaries established by this Agreement.
5. Neither Plainfield nor Yorkville shall either directly or indirectly seek any modification to this Agreement through court action and this Agreement shall remain in full force and effect until amended or changed by the mutual agreement of both respective corporate authorities.
6. If any provisions of the Agreement shall be declared invalid for any reason, such invalidation shall not affect other provisions of the Agreement, which can be given effect without the invalid provisions, and to this end the provisions of this Agreement are too severable.
7. Plainfield and Yorkville agree to jointly cooperate with other agencies such as the Forest Preserve, State Agencies, Federal Agencies and others in an effort to set aside open space in order to retain the rural atmosphere of Kendall County.

8. The provisions of this Agreement shall not apply to property owned or under contract to purchase by either Plainfield or Yorkville during the time of said ownership or purchase agreement.
9. This Agreement shall be in full force and effect for a period of twenty (20) years from the date hereof and for such further and additional time as the parties hereto may hereafter agree by amendment to this Agreement.
10. This Agreement shall be construed in accordance with the laws of the State of Illinois and shall be published by the respective municipalities and recorded or filed with appropriate County recorders, County Clerks, and others as their interest may appear.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the above date at Yorkville, Illinois.

United City of Yorkville, Kendall County,  
Illinois, a municipal corporation

By: \_\_\_\_\_  
Mayor

*Attest:*

\_\_\_\_\_  
City Clerk

Village of Plainfield, Will County, Illinois  
a municipal corporation

By: \_\_\_\_\_  
Mayor

*Attest:*

\_\_\_\_\_  
Village Clerk

Ordinance No. 2020-\_\_\_\_\_

**AN ORDINANCE AUTHORIZING A JURISDICTIONAL BOUNDARY  
LINE AGREEMENT BETWEEN THE UNITED CITY OF YORKVILLE  
AND THE VILLAGE OF PLAINFIELD**

**WHEREAS**, the United City of Yorkville (the “City”) is a duly organized and validly existing non home-rule municipality created in accordance with the constitution of the State of Illinois of 1970 and the laws of the State of Illinois; and,

**WHEREAS**, there is unincorporated territory lying between the City and the Village of Plainfield (“Plainfield”) that was the subject of a previous Jurisdictional Boundary Line Agreement (“Boundary Agreement”) entered into between the City and Plainfield and it is the desire of each to update and extend the terms of that Boundary Agreement for an additional twenty years; and,

**WHEREAS**, the Section 11-12-9 of the Illinois Municipal Code (65 ILCS 5/11-12-9) provides for the entering into jurisdictional boundary line agreements after notice and hearing; and,

**WHEREAS**, The City and Plainfield have negotiated a new Boundary Agreement to establish a jurisdictional boundary line in order to enable each municipality to plan the orderly growth and development of their communities by the exercise of their planning, annexation, zoning and subdivision authority on its side of the boundary line.

**NOW THEREFORE, BE IT ORDAINED**, by the Mayor and City Council of the United City of Yorkville, Kendall County, State of Illinois, as follows:

**Section 1:** That the *JURISDICTIONAL BOUNDARY LINE AGREEMENT BETWEEN VILLAGE OF PLAINFIELD, KENDALL AND WILL COUNTIES AND THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS*, between the United City of Yorkville and the Village of Plainfield, a copy of which is attached hereto and made a part hereof as Exhibit A, be and the same is hereby approved and the Mayor and City Clerk be and are hereby authorized and directed to execute the Agreement on behalf of the United City of Yorkville.

**Section 2:** This Ordinance shall be in full force and effect upon its passage and approval according to law.

Passed by the City Council of the United City of Yorkville, Kendall County,  
Illinois this \_\_\_\_ day of \_\_\_\_\_, A.D. 2020.

---

CITY CLERK

KEN KOCH	_____	DAN TRANSIER	_____
JACKIE MILSCHEWSKI	_____	ARDEN JOE PLOCHER	_____
CHRIS FUNKHOUSER	_____	JOEL FRIEDERS	_____
SEAVAR TARULIS	_____	JASON PETERSON	_____

**APPROVED** by me, as Mayor of the United City of Yorkville, Kendall County,  
Illinois this \_\_\_\_ day of \_\_\_\_\_, A.D. 2020.

\_\_\_\_\_  
MAYOR



Reviewed By:	
Legal	<input type="checkbox"/>
Finance	<input type="checkbox"/>
Engineer	<input type="checkbox"/>
City Administrator	<input checked="" type="checkbox"/>
Human Resources	<input type="checkbox"/>
Community Development	<input type="checkbox"/>
Police	<input type="checkbox"/>
Public Works	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>

Agenda Item Number

New Business #6

Tracking Number

EDC 2020-48

### Agenda Item Summary Memo

**Title:** Meeting Schedule for 2021

**Meeting and Date:** Economic Development Committee – October 6, 2020

**Synopsis:** Proposed meeting schedule for 2021.

#### Council Action Previously Taken:

Date of Action: \_\_\_\_\_ Action Taken: \_\_\_\_\_

Item Number: \_\_\_\_\_

**Type of Vote Required:** Majority

**Council Action Requested:** Approval

**Submitted by:** Lisa Pickering Administration  
Name Department

#### Agenda Item Notes:

---

---

---

---

---

*Have a question or comment about this agenda item?*

Call us Monday-Friday, 8:00am to 4:30pm at 630-553-4350, email us at [agendas@yorkville.il.us](mailto:agendas@yorkville.il.us), post at [www.facebook.com/CityofYorkville](https://www.facebook.com/CityofYorkville), tweet us at @CityofYorkville, and/or contact any of your elected officials at <http://www.yorkville.il.us/320/City-Council>



# Memorandum

To: Economic Development Committee  
From: Lisa Pickering, City Clerk  
CC: Bart Olson, City Administrator  
Date: September 29, 2020  
Subject: Economic Development Committee Meeting Schedule for 2021

---

## **Summary**

Proposed 2021 meeting schedule for the Economic Development Committee.

## **Meeting Schedule for 2021**

Listed below are the proposed meeting dates for the Economic Development Committee meetings for 2021. The proposed schedule has the committee continuing to meet on the first Tuesday of the month at 6:00 p.m. with the exception of the April meeting due to Election Day. The April meeting is proposed for the first Wednesday of April instead of the first Tuesday.

- January 5, 2021
- February 2, 2021
- March 2, 2021
- April 7, 2021 (Wednesday)
- May 4, 2021
- June 1, 2021
- July 6, 2021
- August 3, 2021
- September 7, 2021
- October 5, 2021
- November 2, 2021
- December 7, 2021

## **Recommendation**

Staff recommends review of the proposed meeting dates and time so that a meeting schedule can be finalized for 2021.

# 2021

January						
Su	M	Tu	W	Th	F	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February						
Su	M	Tu	W	Th	F	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

March						
Su	M	Tu	W	Th	F	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

April						
Su	M	Tu	W	Th	F	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

May						
Su	M	Tu	W	Th	F	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

June						
Su	M	Tu	W	Th	F	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

July						
Su	M	Tu	W	Th	F	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

August						
Su	M	Tu	W	Th	F	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

September						
Su	M	Tu	W	Th	F	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October						
Su	M	Tu	W	Th	F	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

November						
Su	M	Tu	W	Th	F	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

December						
Su	M	Tu	W	Th	F	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	





Reviewed By:	
Legal	<input checked="" type="checkbox"/>
Finance	<input type="checkbox"/>
Engineer	<input type="checkbox"/>
City Administrator	<input checked="" type="checkbox"/>
Human Resources	<input type="checkbox"/>
Community Development	<input checked="" type="checkbox"/>
Police	<input checked="" type="checkbox"/>
Public Works	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>

Agenda Item Number

Old Business #1

Tracking Number

EDC 2020-32

### Agenda Item Summary Memo

**Title:** Urban (Domesticated) Chickens

**Meeting and Date:** Economic Development Committee – October 6, 2020

**Synopsis:** Discussion regarding permitting and regulating urban (domesticated) chickens in  
residentially zoned districts.

#### Council Action Previously Taken:

Date of Action: \_\_\_\_\_ Action Taken: \_\_\_\_\_

Item Number: \_\_\_\_\_

**Type of Vote Required:** \_\_\_\_\_

**Council Action Requested:** \_\_\_\_\_

**Submitted by:** Krysti Barksdale-Noble, AICP Community Development  
Name Department

#### Agenda Item Notes:

See attached memo.



# Memorandum

To: Economic Development Committee  
From: Krysti J. Barksdale-Noble, Community Development Director  
CC: Jason Engberg, Senior Planner  
Peter Ratos, Building Code Official  
Bart Olson, City Administrator  
Date: September 30, 2020  
Subject: **Urban (Domesticated) Chickens**

## Summary:

At the September 1st Economic Development Committee (EDC) meeting, it was recommended that staff research the existing residential subdivision's homeowners' association (HOA) declarations to determine if there are any restrictions in place prohibiting "urban/backyard" chickens which would make the proposed zoning amendment to permit chickens in residential districts moot. This is due to a significant portion of Yorkville's residentially zoned land is part of a master planned development. Additionally, staff was tasked with creating a brief web survey presented to the community about the topic of allowing chickens in residential districts.

## Subdivision Homeowner's Association Research:

Staff researched all residential subdivision homeowners' associations (HOA) declarations on file with the Kendall County Recorder's Office to determine if there were any restrictions to allowing backyard chickens in the City's master-planned developments. Below is a chart of the findings:

	Name of Current Development	Unit Type(s)	Covenant Record Doc. #	Date of Covenant	Restrictions/ Prohibits Chickens (Y/N)	Covenant Section & Language
1	Autumn Creek	Single Family Town Homes	#20060008954	3/27/2006	Y	Sec. 8.5 pg. 18: "No animals, livestock or poultry..."
2	Blackberry Woods	Single Family	#201000012125	7/14/2010	Y	Sec. 6 Animals: "No animals, livestock, or poultry of any kind shall be raised, bred, or kept on Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose."
3	Briarwood	Single Family	#200700000625	1/5/2007	Y	Sec. 3.2 (j) pg. 7 "No animals, livestock or poultry..."
4	Bristol Bay	Single Family Duplex Town Homes Condominiums	#200600003313	1/31/2006	Y	Article VIII Sec. 1 (f) pg. 13 "No animals, reptiles, rabbits, livestock, fowl or poultry..."
5	Caledonia	Single Family	#200600026078	8/21/2006	N	No language specific to pets

6	<b>Cannonball Estates</b>	Single Family	Not Recorded	N/A	N	N/A
7	<b>Cimarron Ridge</b>	Single Family Duplex	#199200921219	2/10/1992	Y	Article III Sec. 1 pg. 2 "No poultry..."
8	<b>Country Hills</b>	Single Family Duplex	#199509501815	3/17/1995	Y	Article III Sec. 16 (g) pg. 8 "No animals other than household pets such as cats and dogs."
9	<b>Fox Highlands</b>	Single Family Town Homes Duplex	#200100012188	7/10/2001	Y	Article V Sec. 6 pg. 14 "No animals except cats or dogs..."
10	<b>Fox Hill</b>	Single Family Town Homes Duplex	#199509500419 #199509507391 #200700032452	01/18/1995 09/13/1995 11/02/2007	Y	Article III Sec. 3.9 pg. 6 "No chickens..." Article 7 Sec. 7.6 pg 18 "No animals except cats and dogs..." Article 3 Section 3.10 (f) pg 18 "No animals or any kind shall be raised, bred or kept in any Unit or in the Common Elements except for those animals assisting disabled persons or animals that are being examined or treated by a certified veterinarian who is maintaining a veterinary medicine practice in any of the Units."
11	<b>Grande Reserve</b>	Single Family Duplex Town Homes Apartments	#200500002378	1/25/2005	Y	Article X Sec. 10.02 pg 42 "No poultry..."
12	<b>Greenbriar</b>	Single Family Duplex	#199709707331	7/28/1997	N	No language specific to pets
13	<b>Heartland Circle</b>	Single Family	#2004000002598	1/30/2004	Y	Sec. 5.03 (a) pg. 9 "No poultry..."
14	<b>Heartland Subdivision</b>	Single Family	#200100006495	4/19/2001	Y	Sec. 5.03 (a) pg. 11 "No poultry..."
15	<b>Heartland Meadows</b>	Single Family	Not Recorded	N/A	N/A	N/A

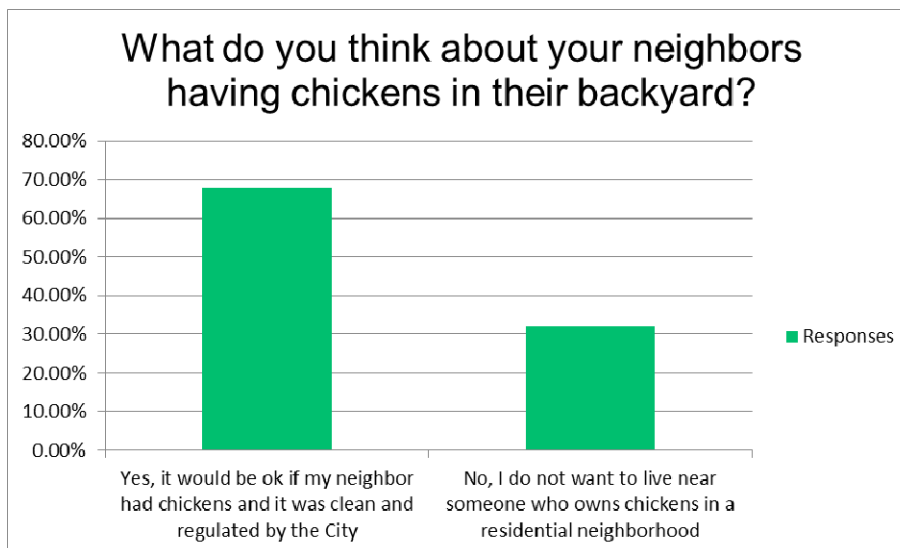
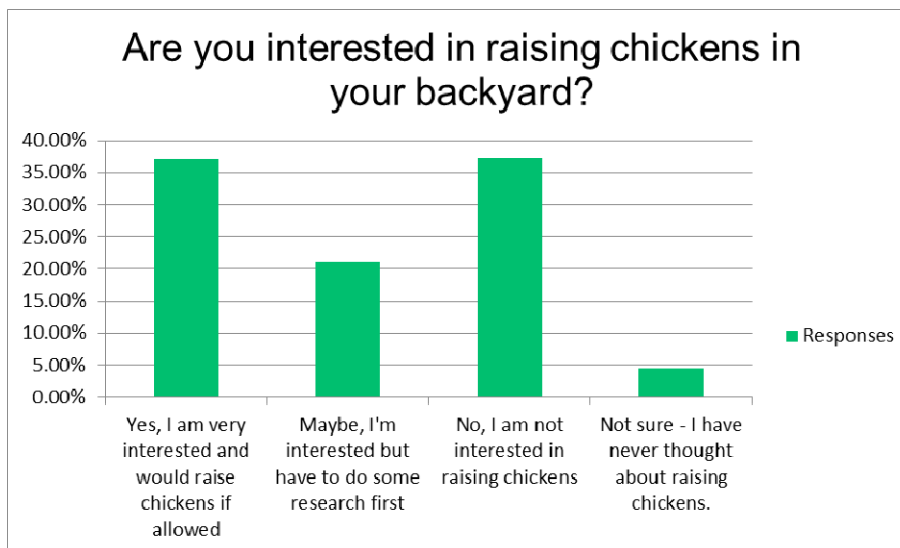
16	<b>Kendall Marketplace</b>	Single Family Town Homes	Not Recorded	N/A	N/A	N/A
17	<b>Kylyn's Ridge</b>	Single Family	200300036916	30-Sep-03	N	No language specific to pets
18	<b>Longford Lakes</b>	Townhomes	200400000827	12-Jan-04	N	No language specific to pets
19	<b>Prairie Gardens</b>	Age Restricted	200400006116	15-Mar-04	N	No language specific to pets
20	<b>Prairie Meadows</b>	Single Family Multi-Family	200500003507	3-Feb-05	N	No language specific to pets
21	<b>Prestwick of Yorkville</b>	Single Family	200700014390	2-May-07	Y	4.3.11 Dogs and Cats: No more than a total of two (2) dogs or two (2) cats or one (1) dog and one (1) cat can be maintained, kept or housed in any residential unit whether or not such animal is the property of the owner of such residential unit. No such animal shall be allowed outside of a residential unit unless accompanied and attended at all times by an occupant of such residential unit and no dogs shall be allowed to bark as to create any type of nuisance to neighbors.
22	<b>Raintree Village</b>	Single Family Duplex Town Homes	201900008500	26-Jun-19	Y	Section 8.04 Pets: No animals, livestock or poultry of any kind shall be raised, bred, or kept in the Community Area. The Board may from time to time adopt rules and regulations governing (a) the keeping of pets in Detached Home or Duplex Home, which may include prohibiting certain species of pets from being kept in a Detached Home or Duplex Home and (b) the use of the Community Area by pets.
23	<b>River's Edge</b>	Single Family	200100025428	31-Dec-01	N	No language specific to pets
24	<b>Sunflower Estates</b>	Single Family	200700019804	27-Jun-07	N	HOA Rescinded
25	<b>Whispering Meadows</b>	Single Family	200500011560	25-Apr-05	N	No language specific to pets
26	<b>White Oak Estates</b>	Single Family	198900895534	27-Sep-89	Y	<b>Article VII, Section 7:</b> No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose.

27	Wildwood	Single Family	198900891588	27-Mar-89	N	No language specific to pets
28	Windett Ridge	Single Family	200300034331	22-Mar-03	N	No language specific to pets

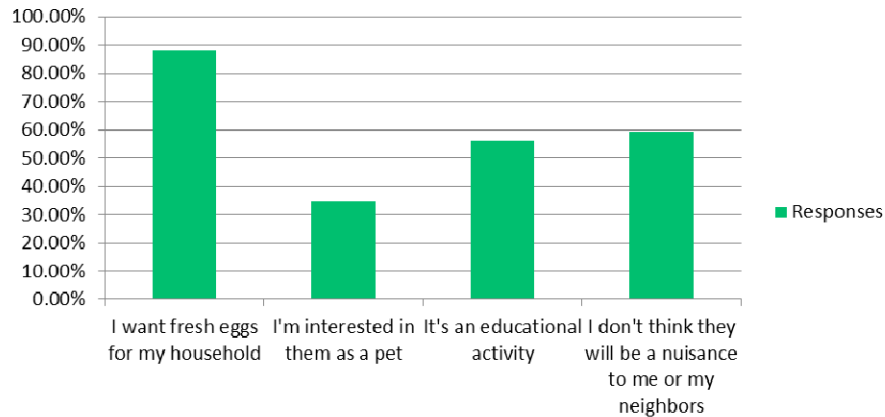
From the information in the above table, 14 of the 28 developments (50.0%) have regulations that specifically do not allow chickens within their HOA covenants. Of the remaining 14 (indicated in **red** in the table), 10 of the developments (35.7%) have no language specific to any pets and 4 (14.3%) have no HOA covenants recorded.

### Urban Chicken Public Survey Results:

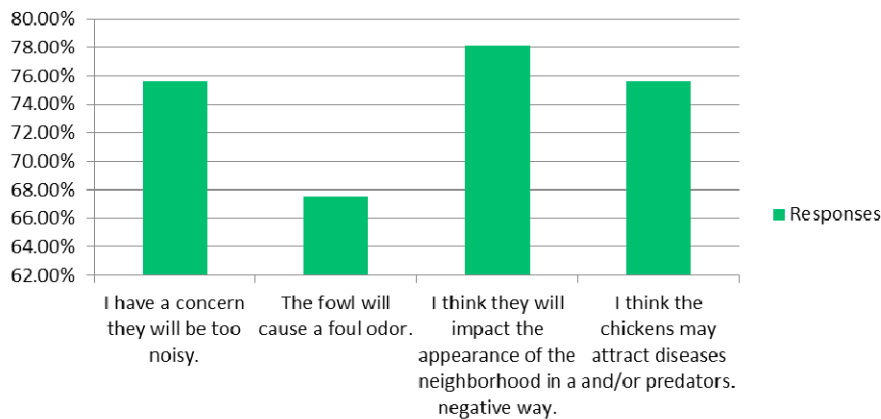
In regard to the public survey, the following summarizes the questions asked and the responses provided as of the date of this memo:



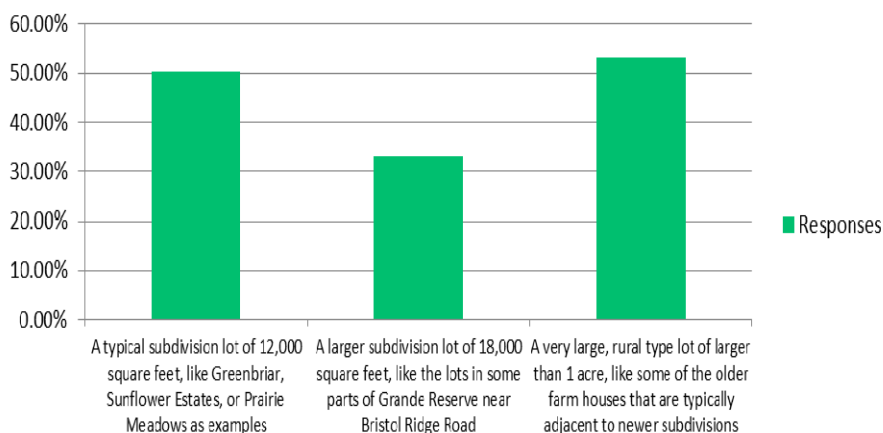
## What are your reasons to support having chickens in a residential neighborhood?

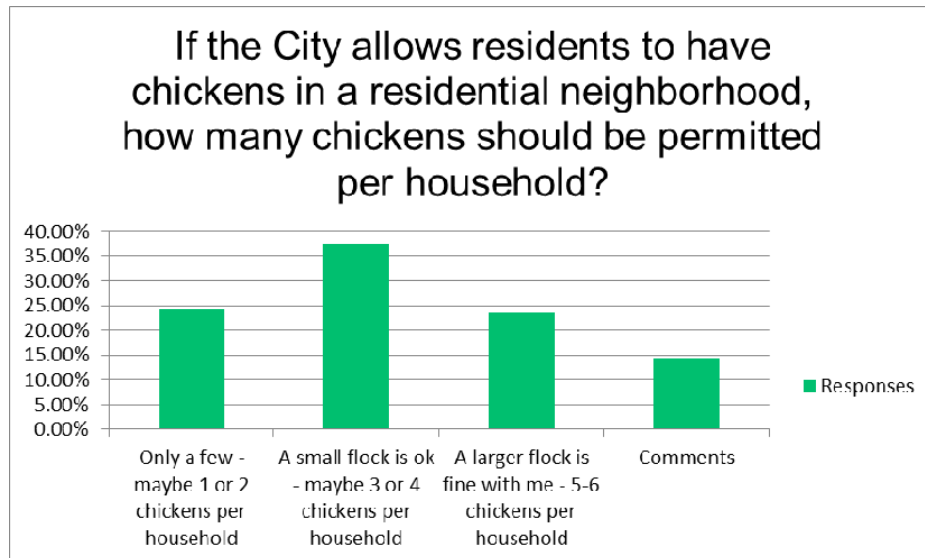


## What are your reasons for opposing chickens in a residential neighborhood?



## If the City allows residents to have chickens in a residential neighborhood, what property / lot sizes do you think is appropriate? (examples provided below are for illustrative purposes only and do not reflect whether a homeowner's association would allow)





From the preliminary results of the survey, respondents are split (37% Yes to 37% No) to interest in raising chickens in their backyards, but an overwhelming percentage of respondents (68%) are okay with their neighbor having the right to raise backyard chickens if it was clean and regulated by the City.

As far as respondents in support of backyard chickens, 87% would want them for their fresh eggs, while those opposed cited the impact to appearance (78%), the noise (75%) and disease and/or predators has major concerns.

Finally, respondents preferred very large rural lots (53%) and typical subdivision lots of 12,000 square feet (50%) to raise backyard chickens and overwhelming thought a small flock of 3-4 chickens was appropriate (37%).

#### **Staff Comments:**

Based upon the research of the City's HOA covenants, only 50% have specific language restricting the raising of backyard chickens. This is consistent with the resident survey responses with 50% supporting backyard chickens in residential subdivisions and 50% opposed. **Therefore, staff is seeking formal direction from the Economic Development Committee (EDC) regarding the request to permit, define and regulate urban/domestic chickens within the city, and to what degree.**

If it is the concurrence of the Committee to amend the City's Code, staff and the City Attorney will prepare the appropriate ordinance language per your direction and present it to the appropriate committees and/or commission at a future meeting with a recommendation to the City Council for final approval.

#### **Attachments**

1. Memorandum to Economic Development Committee (EDC) from staff dated July 20, 2020 with attachments presented at the September 9, 2020 meeting.



# Memorandum

To: Economic Development Committee  
From: Krysti J. Barksdale-Noble, Community Development Director  
CC: Jason Engberg, Senior Planner  
Peter Ratos, Building Code Official  
Bart Olson, City Administrator  
Date: July 20, 2020  
Subject: **Urban (Domesticated) Chickens**

## Summary:

At the July Economic Development Committee (EDC) meeting, it was recommended that staff move forward with preparing policy options for permitting “urban/domesticated” chickens in single-family residentially zoned districts within the city. Since the communities’ staff researched regulate urban/domesticated chickens to varying degrees, we are offering three (3) policy options: (1) permitted with limited regulation; (2) permitted with moderate regulation; and (3) permitted with substantial regulations.

## Research:

In staff’s research of the decades old movement toward bringing agricultural practices into city/suburban lifestyles, the raising of non-traditional domesticated animals, such as chickens, has risen in popularity. Cities have generally responded to this trend by either banning such practices outright or permitting the practice with a wide range of regulations. Those municipalities that chose to permit the practice of raising chickens in non-agriculturally zoned districts typically focused on the following regulations:

<b>Regulation</b>	<b>Best Practice</b>	<b>Reasoning</b>
<i>Permitted Zoning Districts</i>	Single-Family Zoning Districts	<ul style="list-style-type: none"><li>• Generally, single-family dwelling units are located on larger lots, able to accommodate needed setbacks to house a coop.</li><li>• Multi-family dwelling units are limited in lot size to permit every unit to have the opportunity to keep a chicken coop.</li></ul>
<i>Maximum number of chickens</i>	Typically permits a maximum of six (6) chickens.	<ul style="list-style-type: none"><li>• Chickens are stock animals which do not thrive alone, so most owners have a minimum of four (4) to maintain a proper “social order”.</li><li>• Allows for owners to have hens that still produce eggs and keep those hens that are still valued by the owner but can no longer lay eggs.</li><li>• Capping the number of hens to less than six (6) may lead owners who raise chickens for eggs to limit their flock to only egg producers and burden animal shelters with cast-off older hens.</li></ul>
<i>Minimum lot size requirement</i>	If specified, varies depending on Zoning Ordinance requirements (typically 2,500 - 8,000 sq. ft.).	<ul style="list-style-type: none"><li>• Generally, the requirement of a minimum lot size reduces the number of residentially zoning districts allowable for urban/backyard chickens (i.e., only permit in E-1 and R-1 districts and not in R-2)</li><li>• Needlessly creates obstacles to raising chickens in residential districts otherwise suited for the use.</li></ul>



<i>Location and/or Setback Requirements</i>	<p>Located only in rear yards.</p> <p>Minimum of 25 ft. from any side/rear property line.</p>	<ul style="list-style-type: none"> <li>• Typically seen as an “accessory use” to the primary residential land use, the location is most appropriate in rear yards.</li> <li>• Minimum 25 ft. setback is far enough to reduces nuisance of noise and odor, but also allows smaller properties to meet the standard.</li> </ul>
<i>Sanitation Requirements (i.e. Performance Standards)</i>	<p>Requires coop and outdoor enclosure must be kept in a sanitary condition and free from offensive odors and accumulation of waste.</p> <p>Prohibit feed from being scattered on the ground and requiring chickens to be fed from a trough.</p>	<ul style="list-style-type: none"> <li>• Typically, can be enforced through existing performance standards in Zoning Ordinance and Property Maintenance Code.</li> <li>• Goal is to reduce odor, rodent and accumulation of waste without implementing stringent cleaning requirements which would be impossible to enforce.</li> </ul>
<i>Enclosure/Coop Construction</i>	<p>Constructed with a covered, predator-proof roof which allows for two (2) square feet per hen.</p> <p>Some ordinances provide sample construction diagram of wall/roof section and allowed materials.</p> <p>Typically requires a fenced “chicken run” area or located in a fenced yard.</p>	<ul style="list-style-type: none"> <li>• Ensures adequate protection from natural predators (e.g. foxes, dogs, coyotes, etc.) and designed for easy access for cleaning.</li> <li>• Proposed size of 2 sq. ft. per hen provides adequate space for movement but small enough to keep birds warm in winter.</li> <li>• Fencing is required to allow birds to roam during cleaning but precludes chickens from running at large.</li> </ul>
<i>Slaughtering</i>	Prohibited	<ul style="list-style-type: none"> <li>• Intent of ordinance is for chickens as pets or for raising of hens for eggs, not for meat.</li> <li>• Addresses concerns of health/hygiene concerns related to backyard slaughtering/butchering of chickens.</li> </ul>
<i>Roosters</i>	Prohibited or only permitted under four (4) months of age.	<ul style="list-style-type: none"> <li>• Addresses concerns of noise (crowing) and are not needed for hens to produce eggs for feeding.</li> </ul>
<i>Permit Required</i>	<p>Varies by community.</p> <p>Those that require a permit (\$0 - \$50), city inspection and an annual renewal requirement.</p> <p>Recommended not to permit, but establish regulations, similar to regulating home occupations.</p>	<ul style="list-style-type: none"> <li>• Inefficient use of City staff time to require a permit/license, review plans and maintain records.</li> <li>• Permit fees, especially if annual, could prove cost prohibitive for chicken owner.</li> <li>• Enforcement of regulations can still occur through the property maintenance process on a complaint basis.</li> </ul>

**Policy Proposals:**

In consideration of a policy permitting urban/domesticated chickens, staff took into account the above referenced best practices from research gathered in planning related studies, model ordinances and surrounding community zoning codes to create a tier of three (3) options with varying degrees of regulations:

	LIMITED REGULATION	MODERATE REGULATION	SUBSTANTIAL REGULATION
PERMITTED ZONING	<ul style="list-style-type: none"><li>• E-1 (4 parcels)</li><li>• <u>R-1 (264 parcels)</u></li></ul> <b>Total 268 parcels</b>	<ul style="list-style-type: none"><li>• E-1 (4 parcels)</li><li>• R-1 (264 parcels)</li><li>• <u>R-2 (6,358 parcels)</u></li></ul> <b>Total 6,626 parcels</b>	<ul style="list-style-type: none"><li>• E-1 (4 parcels)</li><li>• R-1 (264 parcels)</li><li>• R-2 (6,358 parcels)</li><li>• <u>R-2D (207 parcels)</u></li></ul> <b>Total 6,833 parcels</b>
MAX. NUMBER	Max. 8 chickens	Max. 6 chickens	Max. 4 chickens
MIN. LOT SIZE	N/A	12,000 sq. ft.	10,000 sq. ft.
LOCATION/SETBACK	Rear/Side Yard	Rear/Side Yard 25 ft. setback	Rear Yard Only 25 ft. setback
SANITATION	Performance Standards & Property Maintenance Code applies.	Performance Standards & Property Maintenance Code applies.  Prohibit feed from being scattered on the ground.	Performance Standards & Property Maintenance Code applies  Prohibit feed from being scattered on the ground <u>and</u> requiring chickens to be fed from a trough.
ENCLOSURE/COOP	Enclosure Required. No specifications.	Enclosure constructed with a covered, predator-proof roof which allows for two (2) square feet per hen.  Chicken run and/or yard fence required.	Enclosure constructed with a covered, predator-proof roof which allows for two (2) square feet per hen.  Built per sample construction diagram of wall/roof section and allowed materials.  Chicken run and/or yard fence required.
SLAUGHTERING	Prohibited	Prohibited	Prohibited
ROOSTERS	Permitted	Permitted up to 4 months of age	Prohibited
PERMIT REQUIRED	Not Required	Required w/o Inspection (\$25.00 one-time fee)	Required w/Inspection (\$50.00 one-time fee)

Examples of a “Limited Regulation”, “Moderate Regulation” and “Substantial Regulation” ordinances are attached to this memo.

### **Potential Code Amendments:**

Current sections of the City Code would be impacted and require amending if any measure permitting domesticated chickens and backyard coops/enclosures are allowed as accessory uses/structure. These include Chapter 2: Animals of Title 5: Police Regulations; Chapter 3: General Zoning Provisions of Title 10: Zoning; and Title 8: Building Regulations.

However, staff recommends amending the Zoning Ordinance only if the City Council decides to implement the “Limited Regulations” which does not require a building permit for approval. Otherwise, we recommend amendments only to the Police and Building titles of the City Code if the “moderate” and “substantial” regulations are adopted, as this is consistent with how the Beekeeping Regulations were approved.

The following are areas in each aforementioned section which would require amending, text in red is proposed to be **added**:

#### **Title 5: Police Regulations, Chapter 2: Animals**

“Agricultural Animal” definition in Section 5-2-1: Definitions will need to be amended to read as follows: “AGRICULTURAL ANIMAL: Livestock, poultry **with the exception of domesticated chickens as regulated in (insert section)**, and other farm animals.”

“Domestic Animal” definition in Section 5-2-1: Definitions will need to be amended to read as follows: “DOMESTIC ANIMAL: Dogs, cats and any other types of animals or fowl, **including domesticated chickens as regulated in (insert section)**, normally maintained as a household pet or guardian.”

Creation of a new definition in Section 5-2-1: Definitions for “domesticated chickens” to read as follows: **“DOMESTICATED CHICKENS: A subspecies of the species Gallus Domesticus which are kept in an enclosure in the rear or side yard of a residentially zoned property as permitted and regulated in (insert section).”**

#### **Title 5: Police Regulations, Section 5-2-5: Agricultural Animals**

Section 5-2-5: Agricultural Animals will need to be amended to read as follows:

“Agricultural animals are prohibited within the corporate limits of the city, unless they **are domesticated chickens regulated in (insert section)** or are confined within an enclosure on land zoned A-1 agricultural zoning district, in accordance with title 10, chapter 9 of this code.”

#### **Title 8: Building Regulations**

Should the City Council pursue the moderate or substantial regulations, staff recommends creating a new chapter, **Chapter 19: Domesticated Chickens**, which will provide all regulatory requirements for permitting chickens in designated residential districts.

#### **Title 10: Zoning, Chapter 3: General Zoning Provisions**

Should the City Council pursue the limited regulations, staff recommends creating a new section in the General Zoning Provisions, **Section 10-3-15: Domesticated Chickens**, which will provide all regulatory requirements for permitting chickens in designated residential districts.

Creation of a new definition in Section 10-2-3: Definitions for “domesticated chickens” to read as follows: **“DOMESTICATED CHICKENS: A subspecies of the species Gallus Domesticus which**

are kept in an enclosure in the rear or side yard of a residentially zoned property as permitted and regulated in (insert section).”

### **Potential Enforcement Options:**

In regard to potential enforcement options, the following options exist:

1. **Property Maintenance Code** – existing provisions within the 2018 International Property Maintenance Code (IPMC) allows for the enforcement of public nuisances such as rodent harborage, maintenance of accessory structures, and proper rubbish and garbage containment, all which may result from unkept chicken coops.
2. **Animals At Large** – existing provisions within 5-2-4: Domestic Animals, prohibits domestic animals from running at large, with or without a tag fastened to its collar, within the corporate limits of the city. When any domestic animal is found on any public street, sidewalk, alley or any unenclosed place it is deemed to be running at large unless firmly held on a leash or is in an enclosed vehicle. This can be an issue if chickens are let loose in a backyard without secure fencing.
3. **Performance Standards** – located in the Zoning Ordinance, performance standards regulate noise (also regulated in Public Health and Safety ordinance the City Code) and odor which are also concerns related to permitting domestic chickens in residential districts.
4. **Permit Revocation** – the Building Code Official has the ability to revoke any valid permit if a violation is found and not corrected.

All of the above provisions would require processing through the City’s Administration Adjudication procedures which, in addition, can lead to forced compliance, but fines and/or fees.

Additionally, staff has received feedback from the Police Department which expressed concerned regarding nuisance and noise complaints, as well as conflicts between this ordinance and HOA regulations. While the proposed enforcement options address the noise and nuisance complaints, the City has no authority to enforce HOA regulations.

To ensure communication between residents and their homeowners association is made prior to application submittal, staff can require a letter or approval from the HOA board as part of the permitting process. The attached permit example from the City of Batavia is provided for reference.

### **Municipalities with Similar Ordinance Feedback**

Staff has reached out to four (4) area municipalities with existing urban (domesticated) chicken ordinances to seek their experiences administering and enforcing those regulations to share with the committee. Those communities were the cities of Naperville, Evanston, Batavia and the Village of Plainfield. Most of the communities adopted their regulations within the last 10 years and on average have had approximately twelve (12) applications during that time. None have reported any major complaints and administration of the regulations a non-issue.

### **Staff Comments:**

Staff is seeking formal direction from the Economic Development Committee (EDC) to permit, define and regulate urban/domestic chickens within the city, and to what degree. If it is the concurrence of the Committee to amend, staff and the City Attorney will prepare the appropriate ordinance language per your direction and present it to the appropriate committees and/or commission at a future meeting with a recommendation to the City Council for final approval.

## **Attachments**

1. *Illegal Fowl: A Survey of Municipal Laws Relating to Backyard Poultry and a Model Ordinance for Regulating City Chickens*, Jamie Bouvier, Environmental Law Institute, 2012.
2. *Feeding the Locavores, One Chicken at a Time: Regulating Backyard Chickens*, Patricia Salkin, Zoning and Planning Law report, Vol. 34, No. 3, p. 1, March 2011.
3. City of Batavia – Chicken and Coop Requirements (Permit Application example)
4. Village of Plainfield – Keeping of Chickens regulations (Limited Regulation example)
5. City of Naperville – Urban Livestock Ordinance (Moderate Regulation example)
6. City of Evanston – Urban Livestock Ordinance (Substantial Regulation example)
7. Emails from residents regarding chickens

# Illegal Fowl: A Survey of Municipal Laws Relating to Backyard Poultry and a Model Ordinance for Regulating City Chickens

by Jaime Bouvier

Jaime Bouvier is Visiting Legal Writing Professor,  
Cleveland-Marshall College of Law.

---

## Summary

---

As the movement toward keeping backyard chickens continues to grow, many cities are facing the decision of whether to allow residents to keep chickens and, if so, how to effectively regulate the practice. A survey of municipal ordinances in the top 100 most populous cities in the United States that concern keeping and raising chickens offers lessons that may be applied to designing a model ordinance. This survey reveals that chickens are, perhaps surprisingly, legal in the vast majority of large cities. The survey also identifies regulatory norms and some effective and less effective ways to regulate the keeping of chickens. A proposed model ordinance, based on the background information and survey results, could be adopted by a city or easily modified to fit a city's unique needs.

---

So much depends  
upon  
a red wheel  
barrow  
glazed with rain  
water  
beside the white  
chickens.

William Carlos Williams, 1923.

The movement toward bringing agricultural practices into the city has continued to expand during the last decade.<sup>1</sup> As we learn more about the problems with our modern commercial agricultural practices—like keeping large numbers of animals crowded in small indoor facilities with little or no access to fresh air or sunlight and growing vast amounts of corn and soy in a monoculture environment to feed those animals<sup>2</sup>—many city-dwellers are taking it into their own hands to provide solutions.<sup>3</sup> Community gardens are increasing in cities across the country.<sup>4</sup> Market farms and even full-scale urban farms are popping up both in cities where the foreclosure epidemic has caused an abundance of abandoned properties and in cities where property has maintained or even increased in value.<sup>5</sup> And, farmer's markets have increased exponentially across the country—allowing smaller scale local farmers to directly link to consumers and sell their produce for far above the wholesale amounts they could get from selling through

---

*Author's Note: I would like to thank my research assistant Hannah Markel. I would also like to thank Heidi Gorovitz Robertson and Carolyn Broering-Jacobs for their support and mentorship.*

1. Kimberly Hodgson et al., *Urban Agriculture: Growing Healthy Sustainable Places*, American Planning Association, Planning Advisory Service, Report No. 563 (Jan. 2011); JANINE DE LA SALLE & MARK HOLLAND, *AGRICULTURAL URBANISM, HANDBOOK FOR BUILDING SUSTAINABLE FOOD & AGRICULTURAL SYSTEMS IN 21ST CENTURY CITIES*, 9-12 (2010).
2. *E.g.*, FOOD, INC. (Magnolia Pictures 2009); MICHAEL POLLAN, *THE OMNIVORE'S DILEMMA: A NATURAL HISTORY OF FOUR MEALS* (2006); ERIC SCHLOSSER, *FAST FOOD NATION: THE DARK SIDE OF THE ALL AMERICAN MEAL* (2002); MARION NESTLE, *FOOD POLITICS: HOW THE FOOD INDUSTRY INFLUENCES NUTRITION AND HEALTH* (2002).
3. *E.g.*, LISA TAYLOR, *YOUR FARM IN THE CITY: AN URBAN DWELLER'S GUIDE TO GROWING FOOD AND RAISING LIVESTOCK* (2011); THOMAS J. FOX, *URBAN FARMING: SUSTAINABLE CITY LIVING IN YOUR BACKYARD*, IN *YOUR COMMUNITY, AND IN THE WORLD* (2011); KELLY COYNE & ERIK KNUTZEN, *THE URBAN HOMESTEAD: YOUR GUIDE TO SELF-SUFFICIENT LIVING IN THE HEART OF THE CITY* (2010); KURT B. REIGHLEY, *THE UNITED STATES OF AMERICANA: BACKYARD CHICKENS, BURLESQUE BEAUTIES, AND HOMEMADE BITTERS* (2010).
4. Jane E. Schukoske, *Community Development Through Gardening: State and Local Policies Transforming Urban Open Space*, 3 N.Y.U. J. LEGIS. & PUB. POL'Y 315, 354 (1999-2000).
5. Hodgson, *supra* note 1, at 3-4.



more established channels like supermarkets and convenience stores.<sup>6</sup>

Part of the greater urban agriculture movement involves urban animal husbandry—raising livestock in an urban setting.<sup>7</sup> While many cities have allowed for bees, goats, and other livestock in the city,<sup>8</sup> this Article will focus on how cities regulate chickens.<sup>9</sup> Many people in urban environments are seeking to raise chickens to assert control over their food. This may be in reaction to increasing reports of how large industrial farms raise chickens in abusive and unsanitary settings—settings that not only are unhealthy for the chickens but negatively affect the health of people who live near such farms, as well as anyone who eats the eggs or meat from those chickens.<sup>10</sup> Many people view raising chickens and other urban agricultural practices as a way to combat a broken food system and a way to assert individual political power against the large corporations that control much of our food.<sup>11</sup>

In response to a growing demand from city-dwellers to raise their own chickens, either as part of a community

garden, urban farm, or just in their own backyard, cities across the country are amending their ordinances to allow for and regulate backyard chickens.<sup>12</sup> This Article will first provide a primer on what a city-dweller should know about chickens. This is especially targeted to city-dwellers who serve as councilpersons, mayors, or law directors and know little or nothing about chickens. Because many municipal officials lack agricultural knowledge, they lack a basis for understanding whether chickens can peacefully co-exist with their constituents in a cosmopolitan area. And, even if officials believe that residents should be able to keep chickens, they may still feel unequipped to figure out how to properly regulate chickens to head off practical concerns with noise, odor, and nuisance.

Many people may be surprised to learn that even in cities where raising chickens is illegal, many people are doing so anyway.<sup>13</sup> For instance, in a suburb of Cleveland, Jennifer,<sup>14</sup> a young mother of two boys, built a coop in her backyard and bought four chicks.<sup>15</sup> These chicks grew up to be egg-laying hens and family pets before she learned that her city outlawed chickens. The city told her that if she did not get rid of the chickens, she would be subject to continuing expensive citations for violating the city's ordinance. Because both she and her children

6. Patricia E. Salkin & Amy Lavine, *Regional Foodsheds: Are Our Local Zoning and Land Use Regulations Healthy?*, 22 FORDHAM ENVTL. L. REV. 599, 617 (2011); Brandon Baird, *The Pending Farmer's Market Fiasco: Small-Time Farmers, Part-Time Shoppers, and a Big-Time Problem*, 1 KYJEANRL 49, 49-50 (2008-2009). See also Kirk Johnson, *Small Farmers Creating a New Business Model as Agriculture Goes Local*, N.Y. TIMES, July 1, 2012, [http://www.nytimes.com/2012/07/02/us/small-scale-farmers-creating-a-new-profit-model.html?\\_r=1&ref=agriculture](http://www.nytimes.com/2012/07/02/us/small-scale-farmers-creating-a-new-profit-model.html?_r=1&ref=agriculture).
7. Hogdson, *supra* note 1, at 17. See, e.g., ROBERT & HANNAH LITT, A CHICKEN IN EVERY YARD (2011); HARVEY USSERY, THE SMALL-SCALE POULTRY FLOCK: AN ALL-NATURAL APPROACH TO RAISING BACKYARD AND URBAN CHICKENS (2011); ANDY SCHNEIDER, THE CHICKEN WHISPERER'S GUIDE TO KEEPING CHICKENS, EVERYTHING YOU NEED TO KNOW . . . AND DIDN'T KNOW YOU NEEDED TO KNOW ABOUT RAISING CHICKENS (2011); TARA LAYMAN WILLIAMS, THE COMPLETE GUIDE TO RAISING CHICKENS: EVERYTHING YOU NEED TO KNOW EXPLAINED SIMPLY (2010); JEROME D. BELANGER, THE COMPLETE IDIOT'S GUIDE TO RAISING CHICKENS (2010); CARLEE MADIGAN, THE BACKYARD HOMESTEAD (2009); KIMBERLY WILLIS & ROB LUDLOW, RAISING CHICKENS FOR DUMMIES (2009).
8. E.g., Heather Wooten & Amy Ackerman, *Seeding the City: Land Use Policies to Promote Urban Agricultural*, NATIONAL POLICY & LEGAL ANALYSIS NETWORK TO PREVENT CHILDHOOD OBESITY, 34 (2011); Kailee Neuner et al., *Planning to Eat: Innovative Local Government Plans and Policies to Build Healthy Food Systems in the United States*, FOOD SYSTEMS PLANNING AND HEALTHY COMMUNITIES LAB, UNIVERSITY OF BUFFALO, THE STATE UNIVERSITY OF NEW YORK, 17 (2011).
9. See also Patricia Salkin, *Feeding the Locavores, One Chicken at a Time: Regulating Backyard Chickens*, 34:3 ZONING & PLAN. L. REP. 1 (2011) (briefly surveying chicken laws); Mary Wood et al., *Promoting the Urban Homestead: Reform of Local Land Use Laws to Allow MicroLivestock on Residential Lots*, 37 ECOLOGY L. CURRENTS 68 (2010).
10. See, e.g., Nicholas D. Kristof, *Is an Egg for Breakfast Worth This?*, N.Y. TIMES, Apr. 11, 2012, <http://www.nytimes.com/2012/04/12/opinion/kristof-is-an-egg-for-breakfast-worth-this.html>; Nicholas D. Kristof, *Arsenic in Our Chicken*, N.Y. TIMES, Apr. 4, 2012, <http://www.nytimes.com/2012/04/05/opinion/kristof-arsenic-in-our-chicken.html>.
11. Hugh Bartling, *A Chicken Ain't Nothing but a Bird: Local Food Production and the Politics of Land-Use Change*, LOCAL ENVIRONMENT 17(a) (Jan. 2012). For a different take on the political reasons behind backyard chickens, see Shannon Hayes, *Radical Homemakers: Reclaiming Domesticity From a Consumer Culture* (2005) (asserting that urban farming can be a feminist response to modern urbanization).

12. Sarah Grieco, *Backyard Bees, Chickens, and Goats Approved*, NBCSANDIEGO, Feb. 1, 2012, <http://www.nbcsandiego.com/news/local/Backyard-Bees-Chickens-Goats-Approved-138507104.html>; Michael Cass, *Backyard Chickens Make Gains in Nashville*, THE TENNESSEAN, Jan. 5, 2012, <http://www.healthynashville.org/modules.php?op=modload&name=News&file=article&sid=20163>; Peter Applebome, *Envisioning the End of "Don't Cluck, Don't Tell"*, N.Y. TIMES, Apr. 30, 2009, <http://www.nytimes.com/2009/4/30/nyregions/30town?>; Jessica Bennet, *The New Coop de Ville, the Craze for Urban Poultry Farming*, NEWSWEEK, Nov. 16, 2008, <http://www.thedailybeast.com/newsweek/2008/11/16/the-new-coop-de-ville.img.jpg>. And this movement is not just in the United States; Australia, Canada, and Europe also are experiencing a surge in the number of people keeping backyard hens. See, e.g., *Surge in Backyard Poultry Numbers*, BRITISH FREE RANGE EGG PRODUCERS ASSOCIATION (Jan. 9, 2011), [http://www.theranger.co.uk/news/Surge-in-backyard-poultry-numbers\\_21660.html](http://www.theranger.co.uk/news/Surge-in-backyard-poultry-numbers_21660.html) (last visited Feb. 24, 2012); BACKYARD CHICKENS IN TORONTO, ONTARIO, [http://torontochickens.com/Toronto\\_Chickens/Blog/Blog.html](http://torontochickens.com/Toronto_Chickens/Blog/Blog.html) (last visited Feb. 22, 2012) (advocacy group seeking to legalize chickens in Toronto); Chris Mayberry & Peter Thomson, *Keeping Chickens in the Backyard*, DEPARTMENT OF AGRICULTURE AND FOOD, GOVERNMENT OF WESTERN AUSTRALIA (Aug. 2004), [http://www.agric.wa.gov.au/content/aap/pou/man/gn2004\\_022.pdf](http://www.agric.wa.gov.au/content/aap/pou/man/gn2004_022.pdf) (last visited Feb. 22, 2012); ANDREA GAYNOR, *HARVEST OF THE SUBURBS: AN ENVIRONMENTAL HISTORY OF GROWING FOOD IN AUSTRALIAN CITIES* (2006); Catharine Higginson, *Living in France-Keeping Chickens*, LIVING FRANCE, <http://www.livingfrance.com/real-life-living-and-working-living-in-france-keeping-chickens-94936> (last visited Feb. 22, 2012).
13. See, e.g., *Where Chickens Are Outlawed Only Outlaws Will Have Chickens*, BACKYARDCHICKENS.COM, <http://www.backyardchickens.com/t/616955/where-chickens-are-outlawed-only-outlaws-will-have-chickens-t-shirt> (last visited Feb. 15, 2012) (forum for people who own chickens illegally); Heather Cann et al., *Urban Livestock: Barriers and Opportunities Faces by Homesteaders in the City of Waterloo*, Dec. 6, 2011, <http://www.wrfoodsystem.ca/studentresearch> (last visited Feb. 22, 2012) (interviewing several people who own chickens illegally in the Waterloo region of Canada).
14. Not her real name.
15. Interview with Jennifer, July 18, 2011 (on file with author).

had grown close to the hens, they did not want to simply dispose of them or give them away. Instead, Jennifer moved to a neighboring city that had recently passed an ordinance legalizing backyard hens and started a chicken cooperative.<sup>16</sup> Now, a group of neighbors take turns caring for the chickens and share the eggs. Neither in the suburb where she started raising the chicks nor in the city where she started the cooperative did neighbors complain about odor, noise, or any other potential nuisance. And the suburb, by prohibiting chickens, lost the opportunity Jennifer was willing to provide to build strong community ties with her neighbors.<sup>17</sup>

Instead of moving away, others are seeking to change the law to raise chickens in the city where they already live. For instance, Cherise Walker has been advocating for a new ordinance in her community.<sup>18</sup> Ms. Walker is a veteran of the Iraq war who became interested in hens when she read that keeping chickens can help relieve post-traumatic stress disorder.<sup>19</sup> She subscribes to *Backyard Poultry*—a magazine dedicated to backyard chickens<sup>20</sup>; she became certified in hen-keeping by the Ohio State University Extension; and, she began assembling the materials to build a coop in her yard. But, she soon learned that her city outlaws hens as dangerous animals, placing them in the same category as lions, tigers, bears, and sharks.<sup>21</sup> Unwilling to become an outlaw hen-keeper, she, like countless others across the country, is attempting to lobby her mayor and city council-people to educate them about chickens and encourage them to adopt a more chicken-friendly ordinance.<sup>22</sup>

Because of the growing popularity of keeping backyard chickens, cities can benefit from well-thought-out ordinances that avert possible nuisance and make it easy and clear for would-be chicken owners to find out what they need to do to comply with the law.

Changing these ordinances, however, is often a contentious issue.<sup>23</sup> It has caused one mayor in Minnesota to say, “there is a lot of anger around this issue for some reason.

More so than the war by far.”<sup>24</sup> City leaders are understandably concerned that chickens may cause nuisances.<sup>25</sup> They have raised such concerns as decreasing property values<sup>26</sup> and increasing greenhouse emissions,<sup>27</sup> as well as concerns about excessive clucking and overwhelming odors bothering the neighbors.<sup>28</sup> Some express the belief that chickens, and other agricultural practices, simply do not belong in cities.<sup>29</sup> The controversy over backyard chicken regulation has been so contentious that at least one law review article uses it as a case study for the Coase theorem to illustrate how we unnecessarily inflate the costs of processes related to legal change.<sup>30</sup>

In Part I, this Article will discuss the benefits of backyard chickens. Part II will investigate concerns that many people have with keeping chickens in the city. Part III will provide some background about chickens and chicken behavior that municipalities should understand before crafting any ordinance. Part IV will survey ordinances related to keeping chickens in the 100 most populous cities in the United States, identifying regulatory norms and particularly effective and ineffective means of regulation. Finally, Part V will put forward a model ordinance that regulates keeping chickens in an urban setting while providing sufficient regulation to abate nuisance concerns.

16. CLEVELAND, OHIO, CODIFIED ORDINANCES §§205.04, 347.02 (2011).

17. See *infra* Part I.E. (discussing how participating in urban agriculture can increase social connections and civic responsibility).

18. Interview with Jennifer, July 18, 2011 (on file with author).

19. Megan Zotterelli, *Veterans Farming*, THE LEAFLET: NEWSLETTER OF THE CENTRAL COAST CHAPTER OF CALIFORNIA RARE FRUIT GROWERS (July/Aug. 2011), <http://centralcoastfoodie.com/2011/08/veterans-farming/> (noting that the Farmer Veterans Coalition that seeks to link veterans with farming has done so not only to provide veterans with economic opportunities, but because “the nurturing environment of a greenhouse or a hatchery has helped these veterans make impressive strides in their recovery and transition”).

20. *Backyard Poultry Magazine* has been published since 2006 by Countryside Publications, Inc. It currently has a circulation of approximately 75,000 readers. See ADVERTISING INFORMATION FOR BACKYARD POULTRY, <http://www.backyardpoultrymag.com/advertise.html> (last visited Feb. 22, 2012).

21. LAKEWOOD MUN. ORDINANCE §505.18.

22. Interview with Cherise Walker, Mar. 18, 2012 (on file with author).

23. Barak Y. Orbach & Frances R. Sjöberg, *Debating Over Backyard Chickens*, Arizona Legal Studies, Discussion Paper No. 11-02 (Feb. 2012) (listing conflicts in dozens of cities where people were seeking to change ordinances to either legalize or ban chickens); see also Salkin, *supra* note 9, at 1 (describing criticism of efforts to allow chickens in neighborhoods as including “worry that property values will plummet, that chickens will create foul odors and noise, and that they will attract coyotes, foxes, and other pests”).

24. Orbach & Sjöberg, *supra* note 23, at 24.

25. P.J. Huffstutter, *Backyard Chickens on the Rise, Despite the Neighbor's Clucks*, L.A. TIMES, June 15, 2009, <http://articles.latimes.com/2009/jun/15/nation/na-chicken-economy15>.

26. Tiara Hodges, *Cary: No Chickens Yet*, INDYWEEK.COM, Feb. 10, 2012, <http://www.indyweek.com/BigBite/archives/2012/02/10/cary-no-chickens-yet> (last visited Feb. 17, 2012); *Backyard Chickens: Good or Bad Idea*, KVAL.COM, Mar. 3, 2009, <http://www.kval.com/news/40648802.html> (last visited Feb. 17, 2012).

27. Valerie Taylor, *Chickens for Montgomery* (2009), <http://www.scribd.com/doc/16509728/Changing-Your-Citys-Chicken-Laws> (last visited Feb. 17, 2012) (addressing a concern that Montgomery council people voiced about greenhouse gases).

28. Josie Garthwaite, *Urban Garden? Check. Now, Chickens*, N.Y. TIMES, Feb. 7, 2012, <http://green.blogs.nytimes.com/2012/02/07/urban-garden-check-now-chickens/>.

29. Orbach & Sjöberg, *supra* note 23, at 19 (citing one mayor from Franklinton, Louisiana, as stating the “city has changed and grown so much since the original ordinance. We are trying to look to the future. You can’t raise animals or livestock (in the city).”); Barry Y. Orbach & Frances R. Sjöberg, *Excessive Speech, Civility Norms, and the Clucking Theorem*, 44 CONN. L. REV. 1 (2011) (stating that an alderman in Chicago was seeking to ban chickens in part because, “[a]ll things considered, I think chickens should be raised on a farm”); Jerry Kaufman & Martin Bailkey, *Farming Inside Cities*, 13 LANDLINES 1 (2001).

30. See Orbach & Sjöberg, *supra* note 29.



## I. The Benefits of Backyard Chickens

In 1920, an elementary school textbook recommended that every family in America keep a small flock of backyard chickens.<sup>31</sup> The textbook provided that “every family is better off for having a few chickens, provided they are kept out of the garden and at a suitable distance from any house.”<sup>32</sup> It noted that of the millions of dollars worth of eggs that were sold each year at that time, comparatively little came from large poultry farms, but came instead “from the hundreds and thousands of farms and town lots where a few chickens and other fowls are kept in order that they may turn to profit food materials that otherwise would be wasted.”<sup>33</sup> The textbook asserted that chickens were a good value because, as scavengers and omnivores, it was relatively cheap to feed them scraps and receive in return fresh eggs. Also, the textbook championed city flocks because chickens eat insects and thus prevent the increase of insect pests.<sup>34</sup>

The U.S. government was in agreement with the textbook’s advice. During World War I, the United States exhorted every person in America to raise chickens. The U.S. Department of Agriculture (USDA) issued posters with titles like “Uncle Sam Expects You to Keep Hens and Raise Chickens.”<sup>35</sup> One such poster encourages chicken ownership by exhorting that “even the smallest backyard has room for a flock large enough to supply the house with eggs.”<sup>36</sup> The poster goes on to say that because chickens eat table scraps and require little care, every household should contribute to a bumper crop of poultry and eggs in 1918.<sup>37</sup>

These recommendations are still valid today, as many are reevaluating the suburbanization of America that occurred after World War II and reincorporating agricultural practices into daily life.<sup>38</sup> Keeping domesticated fowl has been a part of human existence for millennia,<sup>39</sup> and only in the last century has been seen as something that should be kept separate from the family and the home.<sup>40</sup> While humanity has long understood the benefits of keeping domesticated chickens, many city-dwellers have lost touch with what

### Uncle Sam Expects You To Keep Hens and Raise Chickens



#### Two Hens in the Back Yard for Each Person in the House Will Keep a Family In Fresh Eggs

**E**VEN the smallest back yard has room for a flock large enough to supply the house with eggs. The cost of maintaining such a flock is small. Table and kitchen waste provide much of the feed for the hens. They require little attention—only a few minutes a day.

An interested child, old enough to take a little responsibility, can care for a few fowls as well as a grown person.

Every back yard in the United States should contribute its share to a bumper crop of poultry and eggs in 1918.

**In Time of Peace a Profitable Recreation  
In Time of War a Patriotic Duty**

For information about methods of Back-Yard Poultry Keeping suited to your location and conditions, write

**Your State Agricultural College**  
or  
**The United States Department of Agriculture**  
Washington, D. C.

USDA Poster from Scott Doyon, *Chickens: WWI Solution to Almost Everything*, *Better Cities & Towns*, Nov. 4, 2011, <http://bettercities.net/news-opinion/blogs/scott-doyon/15562/backyard-chickens-wwi-era-solution-almost-everything> (last visited Feb. 15, 2012).

chickens have to offer. There continue to be many benefits to raising hens. Some of the benefits are apparent—like getting fresh free eggs. Some are less apparent—like hen manure being a surprisingly pricey and effective fertilizer and research findings that urban agricultural practices in general raise property values and strengthen the social fabric of a community. The benefits of keeping hens will be discussed more thoroughly below.

### A. Chickens Are a Source of Fresh Nutritious Eggs

The most obvious benefit of keeping chickens in the backyard is the eggs. A hen will generally lay eggs for the first five to six years of her life, with peak production in the first two years.<sup>41</sup> Hens lay more during the spring and summer months when they are exposed to more light because of the longer days.<sup>42</sup> Hens also lay far more eggs when they are younger, starting off with between 150 to 300 eggs per year depending on the breed and dwindling down by about 20% each year.<sup>43</sup> Young hens or pullets often start out lay-

31. WILLIAM THOMPSON SKILLING, *NATURE-STUDY AGRICULTURE* (World Book Co. 1920).

32. *Id.* at 296.

33. *Id.*

34. *Id.*

35. Scott Doyon, *Chickens: WWI Solution to Almost Everything*, *BETTER CITIES & TOWNS*, Nov. 4, 2011, <http://bettercities.net/news-opinion/blogs/scott-doyon/15562/backyard-chickens-wwi-era-solution-almost-everything> (last visited Feb. 15, 2012).

36. *Id.*

37. *Id.*

38. Hodgson, *supra* note 1, at 11-12. See, e.g., ROBERT M. FOGELSON, *BOURGEOIS NIGHTMARES* 168-81 (2005) (noting that backyard poultry-keeping went from being universal and encouraged to being banned as a nuisance when newly developed suburbs aimed toward attracting wealthy residents began instituting policies to ban all household pets in an effort to distinguish themselves from both the urban and rural lower class).

39. Barbara West & Ben-Xiong Zhou, *Did Chickens Go North? New Evidence for Domestication*, 44 *WORLD'S POULTRY SCI. J.* 205-18 (1999). CHRISTINE HEINRICH, *HOW TO RAISE CHICKENS: EVERYTHING YOU NEED TO KNOW* (2007).

40. See, e.g., ANDREA GAYNOR, *HARVEST OF THE SUBURBS* 133 (2006); JANINE DE LA SALLE & MARK HOLLAND, *AGRICULTURAL URBANISM: HANDBOOK FOR BUILDING SUSTAINABLE FOOD & AGRICULTURE SYSTEMS IN 21ST CENTURY CITIES* 23 (2010).

41. LITT, *supra* note 7, at 168-69.

42. *Id.* at 169.

43. *Id.*

ing abnormal-looking or even double-yolked eggs, but as they mature begin laying more uniform eggs.<sup>44</sup> Although hens can live up to 15 or even 20 years, the average hen's lifespan is between four to eight years, so most hens will lay eggs during most of their life—but production will drop off considerably as they age.<sup>45</sup>

Although some have argued that raising backyard chickens will save money that would have been used to buy eggs over time, this claim is dubious.<sup>46</sup> It would take many years to recoup the cost of the chickens, the chicken feed, and the coops.<sup>47</sup> But cost is only part of the equation.

Eggs from backyard hens have been scientifically shown to taste better.<sup>48</sup> First, they taste better because they are fresher.<sup>49</sup> Most eggs bought in a grocery store are weeks if not months old before they reach the point of sale.<sup>50</sup> Recent studies in agriculture science, moreover, demonstrate that if a chicken is allowed to forage for fresh clover and grass, eat insects, and is fed oyster shells for calcium, her eggs will have a deeper colored yolk, ranging from rich gold to bright orange, and the taste of the egg will be significantly fresher.<sup>51</sup>

Next, eggs from backyard hens are more nutritious.<sup>52</sup> Poultry scientists have long known that a hen's diet will affect the nutrient value of her eggs.<sup>53</sup> Thus, most commercial hens are subjected to a standardized diet that provides essential nutrients; but even with this knowledge, large-scale operations cannot provide chickens with an optimal diet under optimal conditions.<sup>54</sup> Tests have found that eggs from small-flock pasture-raised hens actually have a remarkably different nutritional content than your typical store-bought egg—even those certified organic.<sup>55</sup> This is because backyard chickens can forage for fresh grass and other greens and get access to insects and other more natural chicken food.<sup>56</sup> The nutritional differences may also be attributed to the fact that hens are less stressed because

they are kept in a more natural environment with exposure to sun, weather, and adequate companionship.<sup>57</sup> Scientific nutritional analyses have proven that eggs from hens that are kept in small flocks and allowed to forage, when compared with store-bought eggs, have

- 1/3 less cholesterol
- 1/4 less saturated fat
- 2/3 more vitamin A
- 2 times more omega-3 fatty acids
- 3 times more vitamin E
- 7 times more beta-carotene.<sup>58</sup>

Thus, four to six hens can easily provide enough eggs for a typical household and sometimes enough for the neighbors as well. And, the eggs are more nutritious, fresher, and tastier than those available in stores.

## B. Chickens Provide Companionship as Pets

Many people who own a small flock of chickens consider their chickens to be pets and a part of their family—just like a dog or a cat.<sup>59</sup> Chickens have personalities, and many people and children bond with them just like any other pet.<sup>60</sup> Several forums exist on the Internet where people can trade stories about hen antics<sup>61</sup> or debate what breed of chicken is best for children.<sup>62</sup> Chicken owners tend to name their hens, and many can easily describe each hen's temperament and personality.<sup>63</sup>

Perhaps recognizing this, many cities, as shown below, actually regulate chickens as pets—and place no further burden on chicken owners than it would on dog or cat owners.<sup>64</sup>

## C. Chicken Manure Is a Surprisingly Valuable Fertilizer

Chicken manure is an excellent and surprisingly valuable fertilizer. Currently, 20-pound bags of organic chicken manure fertilizer can fetch a price of between \$10 and

44. Bernal R. Weimer, *A Peculiar Egg Abnormality*, 2-4:10 POULTRY SCI. 78-79 (July 1918).

45. LITT, *supra* note 7, at 173.

46. GAIL DAMEROW, BACKYARD HOMESTEAD GUIDE TO RAISING CHICKENS (2011).

47. LITT, *supra* note 7, at 16. William Neuman, *Keeping Their Eggs in Their Backyard Nests*, N.Y. TIMES, Aug. 3, 2009, <http://www.nytimes.com/2009/08/04/business/04chickens.html?pagewanted=all> (acknowledging that backyard chicken enthusiasts do not typically save money by not buying eggs).

48. Klaus Horsted et al., *Effect of Grass Clover Forage and Whole-Wheat Feeding on the Sensory Quality of Eggs*, 90:2 J. SCI. FOOD & AGRIC. 343-48 (Jan. 2010).

49. LITT, *supra* note 7, at 17.

50. *Id.*

51. Horsted et al., *supra* note 48.

52. LITT, *supra* note 7, at 179 (citing Cheryl Long & Tabitha Alterman, *Meet Real Free-Range Eggs*, MOTHER EARTH NEWS, Oct./Nov. 2007, <http://www.motherearthnews.com/Real-Food/2007-10-01/Tests-Reveal-Healthier-Eggs.aspx>; Artemis P. Simopoulos & Norman Salem Jr., *Egg Yolk: A Source of Long-Chain Polyunsaturated Fats in Infant Feeding*, 4 AM. J. CLINICAL NUTRITION 411 (1992) (finding a significant increase in nutrition and significant decrease in harmful fats in small-flock free-range eggs).

53. WILLIAM J. STADELMAN & OWEN J. COTTERILL, EGG SCIENCE & TECHNOLOGY 185 (1995).

54. *Id.*

55. LITT, *supra* note 7, at 17.

56. *Id.*; Simopoulos & Salem Jr., *supra* note 52.

57. *Id.*

58. LITT, *supra* note 7, at 179.

59. *Id.* at 4-10.

60. See, e.g., Carolyn Bush, *A Chicken Christmas Tale*, BACKYARD POULTRY MAG., Jan. 2010, [http://www.backyardpoultrymag.com/issues/5/5-6/a\\_chicken\\_christmas\\_tale.html](http://www.backyardpoultrymag.com/issues/5/5-6/a_chicken_christmas_tale.html) (describing her pet chickens and mourning one of their deaths); CHICKENVIDEO.COM, <http://www.chickenvideo.com/outlawchickens.html> (last visited July 2, 2012) (collecting stories from people who keep chickens as pets despite their illegality).

61. *Funny, Funny Chicken Antics*, BACKYARDCHICKENS.COM, <http://www.backyardchickens.com/forum/viewtopic.php?id=380593> (last visited July 2, 2012).

62. *What Breeds Are Best for Children to Show in 4-H?*, BACKYARDCHICKENS.COM, <http://www.backyardchickens.com/forum/viewtopic.php?pid=5726813> (last visited July 2, 2012).

63. LITT, *supra* note 7, at 4.

64. See *infra* Part IV.C.1.

\$20.<sup>65</sup> Poultry waste has long been used as a fertilizer—it provides necessary nutrients for plants and works well as an addition to compost.<sup>66</sup> Large amounts of uncomposted chicken manure applied directly to a garden will overwhelm or burn the plants, because its nitrogen content is too high.<sup>67</sup> But, the amount of manure that a backyard flock of four to six hens would produce is not enough to harm the plants and can be beneficial to a home garden, even without first being composted.<sup>68</sup>

A small flock of chickens, moreover, does not actually produce much manure. A fully grown four-pound laying hen produces approximately a quarter-pound of manure per day.<sup>69</sup> In comparison, an average dog produces three-quarters of a pound per day, or three times as much waste as one hen.<sup>70</sup> As cities have been able to deal with waste from other pets like dogs and cats with proper regulation, even though there is no market for their waste, cities should be confident that the city and chicken owners can properly manage chicken waste.

#### D. Chickens Eat Insects

Chickens, like other birds, eat insects such as ants, spiders, ticks, fleas, slugs, roaches, and beetles.<sup>71</sup> Chickens also occasionally eat worms, small snakes, and small mice.<sup>72</sup> Insects provide protein that the chickens need to lay nutritionally dense eggs.<sup>73</sup> Small flocks of chickens are recommended as a way to eliminate weeds, although a chicken does not discriminate between weeds and plants and, if left in a garden for too long, will eat the garden plants as well.<sup>74</sup> But, because chickens like to eat insects and other garden pests, allowing the chicken occasional and limited access

to a garden can eliminate a need to use chemicals or other insecticides and prevent insect infestations.<sup>75</sup>

#### E. Chickens Help Build Community

Several studies have found that urban agriculture can increase social connections and civic engagement in the community.<sup>76</sup> Agricultural projects can provide a centerpiece around which communities can organize and, by doing so, become more resilient.<sup>77</sup> Building a sense of community is often especially valuable for more marginalized groups—like recent immigrants and impoverished inner-city areas.<sup>78</sup>

Keeping chickens easily fits into the community-building benefit of urban agriculture. Because chickens lay more eggs in the spring and summer, an owner often has more eggs than he can use: neighbors, thus, become the beneficiaries of the excess eggs. Because chickens are still seen as a novelty in many communities, many chicken owners help to educate their neighbors and their communities by inviting them over for a visit and letting neighbors see the coops and interact with the chickens.<sup>79</sup> Finally, like the example of Jennifer above, keeping chickens can become a community endeavor; many people have formed chicken cooperatives where neighbors band together to share in the work of tending the hens and also share in the eggs.<sup>80</sup>

## II. Cities' Concerns With Backyard Hens

Never mind what you think.  
The old man did not rush  
Recklessly into the coop at the last minute.  
The chickens hardly stirred  
For the easy way he sang to them.

Bruce Weigl, *Killing Chickens*, 1999.

65. Black Gold Compost Chicken Fertilizer sold for \$13.43 for 20 pounds on Amazon. AMAZON.COM, <http://www.amazon.com/Black-Compost-Chick-Manure-60217/dp/B00292YAQC> (last visited July 2, 2012). Chickety-doo-doo sold for \$47.75 for 40 pounds on EBay. EBAY, <http://www.ebay.com/itm/ws/eBayISAPI.dll?ViewItem&item=260889160166&chp=false> (last visited Jan. 6, 2012).

66. Adam A. Hady & Ron Kean, *Poultry for Small Farms and Backyard*, UW COOPERATIVE EXTENSION, <http://learning.store.uwex.edu/assets/pdfs/A3908-03>.

67. LITT, *supra* note 7, at 9.

68. *Id.*

69. *Ohio Livestock Manure Management Guide*, OHIO STATE UNIVERSITY EXTENSION, Bulletin 604-06, p. 3, T. 1 2006, <http://ohioline.osu.edu/b604/> (providing that a four-pound laying hen produces 0.26 of a pound per day of manure).

70. Leah Nemiroff & Judith Patterson, *Design, Testing and Implementation of a Large-Scale Urban Dog Waste Composting Program*, 15:4 COMPOST SCI. & UTILIZATION 237-42 (2007) ("On average, a dog produces 0.34 [kilograms (kg)] (0.75 lbs) of feces per day:").

71. Simopoulos & Salem Jr., *supra* note 52, at 412. Schneider, *supra* note 8, at 15.

72. *Id.*

73. *Id.*

74. John P. Bishop, *Chickens: Improving Small-Scale Production*, Echo technical note, ECHO.NET, 1995, [http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CFMQFjAA&url=http%3A%2F%2Fwww.echocommunity.org%2Fresource%2Fcollection%2FE66CDFDB-0A0D-4DDE-8AB1-74D9D8C3EDD4%2FChickens.pdf&ei=39zxT41Sh7etAdSUmY8C&usq=AFQjCjNHH0\\_bkG\\_5sVmlvgngOXD53AJagA&sig2=\\_cgyLnv7jDV7hGIVZty89g](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CFMQFjAA&url=http%3A%2F%2Fwww.echocommunity.org%2Fresource%2Fcollection%2FE66CDFDB-0A0D-4DDE-8AB1-74D9D8C3EDD4%2FChickens.pdf&ei=39zxT41Sh7etAdSUmY8C&usq=AFQjCjNHH0_bkG_5sVmlvgngOXD53AJagA&sig2=_cgyLnv7jDV7hGIVZty89g) (last visited July 2, 2012).

75. TARA LAYMAN WILLIAMS, *THE COMPLETE GUIDE TO RAISING CHICKENS: EVERYTHING YOU NEED TO KNOW* 95 (2011).

76. Hodgson, *supra* note 1, at 3 (citing LORRAINE JOHNSON, *CITY FARMER: ADVENTURES IN URBAN FOOD GROWING* (2010), and PATRICIA HYNES, *A PATCH OF EDEN: AMERICA'S INNER CITY GARDENERS* (1996)).

77. Hodgson, *supra* note 1, at 94.

78. *Id.* See also *Iowa Concentrated Animal Feeding Operations Air Quality Study, Final Report*, IOWA STATE UNIVERSITY AND THE UNIVERSITY OF IOWA STUDY GROUP 148, Feb. 2002, [http://www.ehsrc.uiowa.edu/cafo\\_air\\_quality\\_study.html](http://www.ehsrc.uiowa.edu/cafo_air_quality_study.html) (finding that in rural areas communities where farms were smaller, were owner-operated, and used the labor of the operating family, the community "had a richer civic and social fabric: residents of all social classes were more involved in community affairs, more community organizations served people of both middle and working class background, and there were more local businesses and more retail activity").

79. LITT, *supra* note 7, at 12-13. See, e.g., Jeff S. Sharp & Molly B. Smith, *Social Capital and Farming at the Rural-Urban Interface: The Importance of Non-farmer and Farmer Relations*, 76 AGRIC. SYS. 913-27 (2003) (finding that communities benefit and agricultural uses have more support when farmers develop social relationships with non-farmers).

80. E.g., Abby Quillen, *How to Share a Chicken or Two*, SHAREABLE: CITIES (Nov. 22, 2009), <http://shareable.net/blog/how-to-share-a-chicken> (last visited Feb. 12, 2012).



## A. Noise

The most frequently expressed concern is that hens will be noisy. This may come from associating roosters with hens. Roosters are noisy.<sup>81</sup> Hens are not particularly noisy. While they will cluck, the clucking is neither loud nor frequent.<sup>82</sup> The clucking of hens is commonly compared to human conversation—both register around 65 decibels.<sup>83</sup> By contrast, the barking of a single dog can reach levels well over 100 decibels.<sup>84</sup>

It should also be noted that chickens have a homing instinct to roost and sleep at night. A hen will return to her coop at night and generally fall asleep before or at sundown.<sup>85</sup> Thus, there should be little concern with clucking hens disturbing a neighborhood at night.

## B. Odor

Many people are concerned that chicken droppings will cause odors that reach neighbors and perhaps even affect the neighborhood. These concerns may stem from publicized reports of odors from large poultry operations.<sup>86</sup> While it is no doubt true that the odors coming from these intensive commercial-scale chicken farms is overwhelming and harmful,<sup>87</sup> these operations often have hundreds of thousands of chickens in very small spaces.<sup>88</sup>

Most of the odor that people may associate with poultry is actually ammonia. Ammonia, however, is a product of a poorly ventilated and moist coop.<sup>89</sup> Coop designs for backyard hens should take this into account and allow for proper ventilation. And, if coops are regularly cleaned, there should be little to no odor associated with the hens.<sup>90</sup>

## C. Diseases

Two diseases are frequently raised in discussions of backyard hens: avian flu and salmonella. For different reasons, neither justifies a ban on backyard hens.<sup>91</sup>

First, with the attention that avian flu has received in the past few years, some have expressed a concern that allowing backyard chickens could provide a transition point for an avian virus to infect humans.<sup>92</sup> While no one can predict whether this virus will cross over to cause widespread illness or how it might do so, it is important to note that avian flu, right now, would have to mutate for it to become an illness that can spread from person to person.<sup>93</sup> Even the H5N1 strain of the virus, a highly pathogenic form that garnered news in the early 2000s because it infected humans, is very difficult for humans to catch and has not been shown to spread from person to person.<sup>94</sup> And that strain of the virus does not exist in the United States—it has not been found in birds, wild or domestic, in North or South America.<sup>95</sup>

Encouraging a return to more small-scale agriculture, moreover, may prevent such a mutation from occurring. Many world and national governmental health organizations that are concerned with the possible mutation of avian flu link the increased risks of disease to the intensification of the processes for raising animals for food—in other words, large-scale factory farms.<sup>96</sup> For instance, the Centers for Disease Control and Prevention (CDC) blamed “the intensification of food-animal production” in part on the increasing threat.<sup>97</sup> The Council for Agricultural Science and Technology, an industry-funded group, created a task force including experts from the World Health Organization, the World Organization for Animal Health, and the USDA, and issued a report in 2006 finding that modern intensive animal farming techniques increase the risk of new virulent diseases.<sup>98</sup> The report stated “a major impact of modern intensive production systems is that they allow the rapid selection and amplification of pathogens that arise from a virulent ancestor (frequently by

81. *Management of Noise on Poultry Farms*, Poultry Fact Sheet, BRITISH COLUMBIA, MINISTRY OF AGRICULTURE AND FOOD (Aug. 1999), <http://www.agf.gov.bc.ca/poultry/publications/documents/noise.pdf>.

82. *Id.*

83. *Protecting Against Noise*, NATIONAL AG SAFETY DATABASE, THE OHIO STATE UNIVERSITY EXTENSION, <http://nasdonline.org/document/1744/d001721/protecting-against-noise.html> (last visited Feb. 22, 2012) (explaining that a chicken coop and human conversation are both about 65 decibels).

84. Crista L. Coppola et al., *Noise in the Animal Shelter Environment: Building Design and the Effects of Daily Noise Exposure*, 9(1) J. APPLIED ANIMAL WELFARE SCI. 1-7 (2006).

85. Williams, *supra* note 75, at 92. Robert Plamondon, *Range Poultry Housing*, ATTRA 11 (June 2003).

86. E.g., William Neuman, *Clean Living in the Henhouse*, N.Y. TIMES, Oct. 6, 2010, <http://www.nytimes.com/2010/10/07/business/07eggfarm.html?scp=2&sq=large%20chicken%20farms%20and%20odor&st=cse>.

87. Doug Gurian Sherman, *CAFOS Uncovered, The Untold Costs of Animal Feeding Operations*, UNION OF CONCERNED SCIENTISTS, Apr. 2008, [http://www.ucsusa.org/assets/documents/food\\_and\\_agriculture/cafos-uncovered.pdf](http://www.ucsusa.org/assets/documents/food_and_agriculture/cafos-uncovered.pdf); *Iowa Concentrated Animal Feeding Operations and Air Quality Study*, Final Report, IOWA STATE UNIVERSITY AND THE UNIVERSITY OF IOWA STUDY GROUP (Feb. 2002) (finding extensive literature documenting acute and chronic respiratory diseases and dysfunction among poultry workers exposed to complex mixtures of particulates, gases, and vapors within CAFO units).

88. *Id.*

89. *Id.*

90. GAIL DAMEROW, *THE BACKYARD HOMESTEAD GUIDE TO RAISING FARM ANIMALS* 35 (2011) (“A chicken coop that smells like manure or has the pungent odor of ammonia is mismanaged. These problems are easily avoided by keeping litter dry, adding fresh litter as needed to absorb droppings, and periodically removing the old litter and replacing it with a fresh batch.”).

91. Sue L. Pollock et al., *Raising Chickens in City Backyards: The Public Health Role*, J. COMMUNITY HEALTH, DOI: 10.1007/s10900-011-9504-1 (2011) (finding that public health concerns about infectious diseases and other nuisances that might be caused by keeping hens in an urban setting cannot be supported by literature specific to the urban agriculture context and recommending that public health practitioners approach this issue in a manner analogous to concerns over keeping domestic pets).

92. E.g., Orbach & Sjöberg, *supra* note 23, at 29.

93. *Avian Influenza*, USDA, <http://www.ars.usda.gov/News/docs.htm?docid=11244> (last visited July 2, 2012).

94. *Avian Influenza, Questions & Answers*, FOOD AND AGRIC. ORG. OF THE UNITED NATIONS, <http://www.fao.org/avianflu/en/qanda.html> (last visited July 26, 2012).

95. *Id.*

96. Michael Greger, *Bird Flu, A Virus of Our Own Hatching*, BIRDFLUBOOK.COM (2006-2008), <http://birdflubook.com/a.php?id=50> (last visited Feb. 21, 2012) (finding that the Food and Agriculture Organization of the United Nations, the World Health Organization, and the World Organization for Animal Health attribute risk factors for the emergence of new diseases from animals to the increasing demand for animal protein).

97. *Id.*

98. *Id.* (citing *Global Risks of Infectious Animal Diseases*, Council for Agric. Sci. and Tech., Issue Paper No. 28, 2005).

subtle mutation), thus, there is increasing risk for disease entrance and/or dissemination.”<sup>99</sup> The report concludes by stating, “because of the Livestock Revolution, global risks of disease are increasing.”<sup>100</sup> It is for this reason that many believe that the movement toward backyard chickens and diverse small-scale poultry farming, rather than being a problem, is a solution to concerns about mutating avian viruses.<sup>101</sup>

Another theory for how an avian flu mutation may occur is that it will first occur in wild birds that could pass it on to domesticated birds.<sup>102</sup> In this case, backyard hens could provide a transition point. For this reason the USDA, rather than advocating a ban on backyard hens, has instead offered some simple-to-follow precautionary procedures for small flock owners: the USDA counsels backyard bird enthusiasts to separate domesticated birds from other birds by enclosing coops and runs, to clean the coops regularly, and to wash their hands before and after touching the birds.<sup>103</sup>

Another illness that causes concern because it can be transferred to humans is salmonella.<sup>104</sup> Chickens, like other common household pets—including dogs, turtles, and caged birds—can carry salmonella.<sup>105</sup> For this reason, the CDC counsels that people should wash their hands after touching poultry, should supervise young children around poultry, and make sure that young children wash their hands after touching chicks or other live poultry.<sup>106</sup>

Chickens, like other pets, can get sick and carry disease. But public health scholars have found that there is no evidence that the incidence of disease in small flocks of backyard hens merits banning hens in the city and counsel city officials to regulate backyard hens like they would any other pet.<sup>107</sup>

## D. Property Values

Another common concern is that keeping backyard chickens will reduce surrounding property values.<sup>108</sup> Several studies, however, have found that agricultural uses within the city actually increase property values.<sup>109</sup> Community gardens increase neighboring property values by as much as 9.4% when the garden is first implemented.<sup>110</sup> The property value continues to increase as the gardens become more integrated into the neighborhood.<sup>111</sup> The poorest neighborhoods, moreover, showed the greatest increase in property values.<sup>112</sup> Studies have also found that rent increased and the rates of home ownership increased in areas surrounding a newly opened community garden.<sup>113</sup>

Studies concerning pets, moreover, find that apartment owners can charge higher rent for concessions such as allowing pets.<sup>114</sup> Thus, accommodating pets has been shown to raise property values.

As of yet, no studies have been done on how backyard chickens in particular affect property values, but given that communities express little concern that other pets, such as dogs or cats, reduce property values, and given research showing that pets and urban agricultural practices can increase them, there is little reason to believe that allowing backyard chickens will negatively affect them.<sup>115</sup>

## E. Slaughter

Some people are concerned that chicken owners will kill chickens in the backyard.<sup>116</sup> People are concerned that it may be harmful to children in the neighborhood to watch a chicken being killed and prepared for a meal.<sup>117</sup> Others are concerned that backyard slaughtering may be unsanitary.<sup>118</sup>

First, many who raise chickens keep the hens only for the eggs.<sup>119</sup> Most egg-laying breeds do not make for tasty meat.<sup>120</sup> Many people become attached to their chickens, as they would a cat or a dog, and treat a death

99. *Id.*

100. *Id.*

101. Ben Block, *U.S. City Dwellers Flock to Raising Chickens*, WORLDWATCH INSTITUTE, <http://www.worldwatch.org/node/5900> (last visited Feb. 22, 2012); *Fowl Play, the Poultry Industry's Central Role in the Bird Flu Crisis*, GRAIN, <http://www.grain.org/article/entries/22-fowl-play-the-poultry-industry-s-central-role-in-the-bird-flu-crisis> (last visited Feb. 22, 2012); *Putting Meat on the Table: Industrial Farm Animal Production in America*, A REPORT OF THE PEW COMMISSION ON INDUSTRIAL FARM ANIMAL PRODUCTION (2006), <http://www.ncifap.org/> (last visited Feb. 21, 2012).

102. Rachel Dennis, *CAFOs and Public Health: Risks Associated With Welfare Friendly Farming*, Purdue Univ. Extension, Aug. 2007, [https://mdc.itap.purdue.edu/item.asp?itemID=18335#.T\\_Hjd3CZOOU](https://mdc.itap.purdue.edu/item.asp?itemID=18335#.T_Hjd3CZOOU).

103. *Backyard Biosecurity, 6 Ways to Prevent Poultry Disease*, USDA, May 2004, [http://www.aphis.usda.gov/animal\\_health/birdbiosecurity/biosecurity/basicspoultry.htm](http://www.aphis.usda.gov/animal_health/birdbiosecurity/biosecurity/basicspoultry.htm) (last visited Feb. 21, 2012).

104. *Keeping Live Poultry*, CDC, <http://www.cdc.gov/features/SalmonellaPoultry/> (last visited Feb. 21, 2012).

105. See Shaohua Zhao, *Characterization of Salmonella Enterica Serotype Newport Isolated From Humans and Food Animals*, 41 J. CLINICAL MICROBIOLOGY, No. 12, 5367 (2003) (stating that dogs and pigeons, as well as chickens, can carry salmonella); J. Hidalgo-Villa, *Salmonella in Free Living Terrestrial and Aquatic Turtles*, 119:2-4 VETERINARY MICROBIOLOGY 311-15 (Jan. 2007).

106. *Keeping Live Poultry*, CDC, <http://www.cdc.gov/features/SalmonellaPoultry/> (last visited Feb. 21, 2012).

107. Sue L. Pollock et al., *Raising Chickens in City Backyards: The Public Health Role*, J. COMMUNITY HEALTH, DOI: 10.1007/s10900-011-9504-1 (2011).

108. Salkin, *supra* note 9, at 1.

109. Hodgson, *supra* note 1, at 21.

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.*

114. G. Stacy Sirmans & C.F. Sirmans, *Rental Concessions and Property Values*, 5:1 J. REAL ESTATE RES. 141-51(1990); C.A. Smith, *Apartment Rents—Is There a “Complex” Effect*, 66:3 APPRAISAL J. (1998) (finding that average apartment unit commands \$50 more rent per unit by allowing pets).

115. Michael Broadway, *Growing Urban Agriculture in North American Cities: The Example of Milwaukee*, 52:3-4 FOCUS ON GEOGRAPHY 23-30 (Dec. 2009).

116. NEIGHBORS OPPOSED TO BACKYARD SLAUGHTER, <http://noslaughter.org> (last visited Feb. 22, 2012).

117. *Id.*

118. *Id.*

119. LITT, *supra* note 7, at 3 (stating that “the vast majority of backyard chicken keepers regard their chickens as pets and find it unsettling—if not outright upsetting—to consider eating them”).

120. JAY ROSSIER, *LIVING WITH CHICKENS: EVERYTHING YOU NEED TO KNOW TO RAISE YOUR OWN BACKYARD FLOCK* 4 (2002).

similarly.<sup>121</sup> Veterinarians, moreover, have avenues for disposing of dead animals that are generally accepted in most communities.<sup>122</sup>

But, if a person did want to use her chickens for meat, there are other methods for butchering a chicken rather than doing so in the backyard. As part of the local food movement, small-scale butchers have made a comeback in the last few years, and many are particularly interested in locally raised animals.<sup>123</sup> Thus, legalizing backyard chickens does not necessarily mean that a city must also legalize backyard chicken slaughtering.<sup>124</sup>

## F. Greenhouse Gases

Although worries that chickens will increase greenhouse gases appears to be a bit over the top, at least one city raised this as a concern when contemplating allowing chickens. In Montgomery, Ohio, at least one city council member was fearful that allowing chickens to be raised in the city might contribute to global warming.<sup>125</sup>

While chickens do produce methane as a natural byproduct of digestion just like any other animal (including humans), the amount they produce is negligible in comparison to other livestock. Methane production is a concern largely confined to ruminant animals, such as cows, goats, and buffaloes.<sup>126</sup> These animals produce a large amount of methane every year because of the way in which they digest carbohydrates.<sup>127</sup> Cows produce an average of 55 kilograms (kg) per year per cow.<sup>128</sup> A goat will produce 5 kg per year, a pig 1.5, and a human 0.05.<sup>129</sup> Chickens, because they are nonruminant animals, and because they are much smaller than humans, produce less than 0.05 kg per year per chicken.<sup>130</sup>

Finally, there is no reason to believe that an urban chicken would cause a net increase in the production of methane. A person who gets her eggs from her pet hen will likely be buying fewer eggs from the supermarket. Thus, there is unlikely to be a net increase in egg consumption, so there is unlikely to be a net increase in chickens. Thus, any

increase in methane production caused by urban chickens is not only negligible, but also likely offset by a decrease in rural chickens.<sup>131</sup>

## G. Winter Weather

Northern cities may be concerned that their climate is not suitable for chickens. Chickens, however, were bred to thrive in certain climates. There are breeds of chicken that are more suited to warm or even hot climates. And, there are chickens that were bred specifically to thrive in colder weather, such as Rhode Island Reds or Plymouth Rocks.<sup>132</sup>

While even cold-hardy breeds can be susceptible to frostbite in extreme winter weather, a sturdy coop with some extra insulation and perhaps a hot water bottle on frigid nights can protect the birds from harm.<sup>133</sup>

## H. Running Wild

Of all of the chicken ordinances that this Article will later discuss, it appears that one of the most popular regulations is to prohibit chickens running wild in the streets.<sup>134</sup> Chickens, like dogs and cats, sometimes escape their enclosures. While it would be irresponsible to presume that no chicken will ever escape its enclosure, city officials can rest assured that chicken keepers do not want to see their hens escape any more than city officials want to see hens running loose on the streets.

For this reason, and also to protect against predators, cities should ensure that chickens are kept in an enclosure at all times.

## III. Some Necessary Background on Hens for Developing Urban Hen-Keeping Ordinances

His comb was finest coral red and tall,  
And battlemented like a castle wall.  
His bill was black and like the jet it glowed,  
His legs and toes like azure when he strode.  
His nails were whiter than the lilies bloom,  
Like burnished gold the color of his plume.

Geoffrey Chaucer, *The Canterbury Tales*,  
The Nun's Priest's Tale<sup>135</sup>

121. Jose Linares, *Urban Chickens*, AM. VETERINARY MED. ASS'N WELFARE FOCUS, Apr. 2011, [http://www.avma.org/issues/animal\\_welfare/AWFocus/110404/urban\\_chickens.asp](http://www.avma.org/issues/animal_welfare/AWFocus/110404/urban_chickens.asp).

122. *Id.*

123. Elizabeth Keyser, *The Butcher's Back*, CONN. MAG., Apr. 2011, <http://www.connecticutmag.com/Connecticut-Magazine/April-2011/The-Butcher-039s-Back/>.

124. *But see* Simon v. Cleveland Heights, 188 N.E. 308, 310 (Ohio Ct. App. 1933) (holding that a ban on poultry slaughtering applied to a small business butcher violated the Ohio Constitution because it prohibited the conduct of a lawful business).

125. Valerie Taylor, CHICKENS FOR MONTGOMERY (June 2009) <http://www.scribd.com/doc/16509728/Changing-Your-Citys-Chicken-Laws> (last visited July 2, 2012) (responding to city's concerns about increase in greenhouse gases).

126. *See Methane, Sources, and Emissions*, U.S. EPA, <http://www.epa.gov/methane/sources.html> (last visited July 2, 2012).

127. *Id.*

128. Paul J. Crutzen et al., *Methane Production by Domestic Animals, Wild Ruminants, Other Herbivorous Fauna and Humans*, 38B TELLUS B. 271-74 (July-Sept. 1986).

129. *Id.*

130. *Id.*

131. Letter from Brian Woodruff, Environmental Planner Department of Natural Resources, to Cameron Gloss (June 12, 2008), <http://www.scribd.com/doc/16509728/Changing-Your-Citys-Chicken-Laws>.

132. LITT, *supra* note 7, at 119.

133. *Id.*

134. *See infra* Part IV.C.5.a.

135. Ronald Ecker trans., Hodge & Braddock Publishers 1993.



## A. Hens Are Social Animals

Chickens are social animals and do better if they are kept in flocks.<sup>136</sup> Chickens can recognize one another and can remember up to 50 or 60 other chickens.<sup>137</sup> Because of this, large flocks of chickens, like those found in most intensive farming operations, are socially unstable and can cause aggressive behavior.<sup>138</sup> In the wild, most flocks form sub-groups of between four to six chickens.<sup>139</sup>

Chickens show affiliative behavior, eating together, preening together, gathering together in small groups if they are given space to do so, and sleeping at the same time.<sup>140</sup> Chickens also learn behaviors from one another—for instance, chickens that watch another trained chicken peck a key to obtain food will learn this task more quickly than other chickens that are not exposed to the behavior.<sup>141</sup>

Because chickens are flock animals, a chicken left alone generally will not thrive.<sup>142</sup> An isolated hen will often exhibit disturbed and self-destructive behaviors, like chasing its own tail and exhibiting excessive aggression.<sup>143</sup> Because eating is social behavior, there are some reports that single chickens stop eating or eat less.<sup>144</sup> While scientific studies have yet to prove that a hen feels loneliness,<sup>145</sup> backyard hen enthusiasts are well aware that an isolated hen will often appear depressed or ill.<sup>146</sup>

## B. The Pecking Order

We often use the term pecking order to describe a hierarchy in a community. The term comes from the tendency for chickens to peck at one another and display aggressive behavior until a hierarchy is established.<sup>147</sup> Once the hier-

archy is established, the aggressive behavior will lessen or even abate until new birds are added to the flock or until a hen mounts a challenge to someone above her in the pecking order.<sup>148</sup>

Studies have shown, however, that incidence of pecking is greatly reduced when hens are kept in lower densities.<sup>149</sup> (Feather pecking is often a problem in large-scale chicken farms.)<sup>150</sup> When densities were approximately six or fewer birds per 10 square feet, pecking behaviors abated or were significantly reduced.<sup>151</sup>

Because a new introduction into the flock will upset the pecking order, some farmers advocate for introducing at least two chicks at a time.<sup>152</sup> This will help spread out the abuse that could be laid on a solitary young hen. It will also more fully upset the pecking order, so that the birds are forced to find a new hierarchy that will include the new birds instead of leaving one isolated hen at the bottom of the flock.<sup>153</sup>

For these reasons, chicken owners should always be allowed to keep, at a minimum, four chickens. This ensures that city regulations do not stand in the way of good flock management: if any hens are lost through injury, illness, or old age, the chicken owner can ensure that the flock never goes below two hens before seeking to add new hens. This will also allow the owner to introduce new hens into the flock two at a time.

## C. Chickens and Predators

Backyard hens in a metropolitan area may, in some ways, be better protected from predators than their rural counterparts, because there are fewer predators in the city. The more prevalent chicken predators in the United States—foxes, coyotes, and bobcats—are found less often in the city than they are in more rural areas.<sup>154</sup> Other predators, however, such as hawks and raccoons, are frequently found in the city.<sup>155</sup>

These predators are one reason why chickens must have sturdy coops that are designed to protect hens from assault. Chickens have an instinct to return to their coop each night.<sup>156</sup> And most predators are more active at night when

136. MICHAEL C. APPLEBY ET AL., *POULTRY BEHAVIOR AND WELFARE* 35, 77-82 (2004); HEINRICH, *supra* note 39, at 11 (2007).

137. Nicolas Lampkin, *Organic Poultry Production*, Welsh Inst. of Rural Studies 20 (Mar. 1997), available at [http://orgprints.org/9975/1/Organic\\_Poultry\\_Production.pdf](http://orgprints.org/9975/1/Organic_Poultry_Production.pdf).

138. APPLEBY ET AL., *supra* note 136 (noting that chickens have increased aggression and increased growth of adrenal glands when they come in contact with other chickens they do not know and also noting that chickens are stressed by being kept in large flocks because it is unlikely that birds in large flocks can form a hierarchy: they are instead “in a constant state of trying to establish a hierarchy but never achieving it”).

139. *Id.* at 71; Lampkin, *supra* note 137, at 20.

140. APPLEBY ET AL., *supra* note 136, at 77-79.

141. *Id.* at 79.

142. IAN J.H. DUNCAN & PENNY HAWKINS, *THE WELFARE OF DOMESTIC FOWL & OTHER CAPTIVE BIRDS* 68-69 (2010).

143. D.G.M. WOOD-GUSH, *THE BEHAVIOR OF THE DOMESTIC FOWL* 124 (1971).

144. D.W. Rajecki et al., *Social Factors in the Facilitation of Feeding in Chickens: Effects of Imitation, Arousal, or Disinhibition?*, 32 J. PERSONALITY & SOC. PSYCHOL. 510-18 (Sept. 1975). Martine Adret-Hausberger & Robin B. Cumming, *Social Experience and Selection of Diet in Domestic Chickens*, 7 BIRD BEHAVIOR 37-43 (1987) (finding that isolated young broilers had lower growth rates than those placed with other birds).

145. APPLEBY ET AL., *supra* note 136, at 142 (suggesting that poultry may suffer from loneliness and boredom and that “[c]onsidering the barrenness of many husbandry systems, boredom would seem to be a good candidate for further studies”).

146. See, e.g., *Do Chickens Get Lonely*, BACKYARD POULTRY FORUM (Friday, Feb. 13, 2009), <http://forum.backyardpoultry.com/viewtopic.php?f=5&t=7970419&start=0> (last visited Mar. 4, 2012).

147. Alphaeus M. Guhl, *Social Behavior of the Domestic Fowl*, 71 TRANSACTIONS KAN. ACAD. SCI. (1968). Gladwyn K. Noble, *The Role of Dominance in the*

*Social Life of Birds*, 56 THE AUK 263 (July 1939).

148. LITT, *supra* note 7, at 122. Alphaeus M. Guhl et al., *Mating Behavior and the Social Hierarchy in Small Flocks of White Leghorns*, 18 PHYSIOLOGICAL ZOOLOGY 365-68 (Oct. 1945).

149. B. Huber-Eicher & L. Audigé, *Analysis of Risk Factors for the Occurrence of Feather Pecking Among Laying Hen Growers*, 40 BRITISH POULTRY SCI. 599-604 (1999) (demonstrating through a study of commercial hen farms in Switzerland that hens were far less likely to feather peck if they were kept in low-density environments and if they had access to elevated perches).

150. *Id.*

151. *Id.*

152. LITT, *supra* note 7, at 122-23.

153. *Id.*

154. See, e.g., Stanley D. Gehrt et al., *Home Range and Landscape Use of Coyotes in a Metropolitan Landscape: Conflict or Coexistence*, J. MAMMALOGY, 1053-55 (2009); Seth P.D. Riley, *Spatial Ecology of Bobcats and Gray Foxes in Urban and Rural Zones of a National Park*, 70(5) J. WILDLIFE MGMT. 1425-35 (2006).

155. WILLIAMS, *supra* note 75, at 88-89.

156. LITT, *supra* note 7, at 71.

the chickens are sleeping in their coops.<sup>157</sup> While there is no guarantee that predators will not find a way to prey on chickens, ensuring that coops are sturdily built with the intention to keep out predators can help ameliorate concerns with predators.<sup>158</sup>

#### D. Roosters Like to Crow

Even city-dwellers who have never met a rooster know that roosters crow. But the popular belief, passed on in children's cartoons, that roosters crow in the morning like an alarm clock to welcome the rising sun is largely a myth. Roosters may crow in the morning, but they also crow in the afternoon or evening or, basically, whenever they feel like it.<sup>159</sup> While the frequency of crowing depends on the breed and the individual rooster, many roosters crow a lot.<sup>160</sup> In fact, because domestic roosters crow so much more frequently than their wild kin, one theory postulates that they were bred over many centuries for loud, long, and frequent crowing because such crowing played an important role in Zoroastrian religious ceremonies.<sup>161</sup>

Because roosters are noisy and frequently so, cities that have more dense urban environments should consider banning them—at least on smaller lot sizes. Some cities have allowed an exception for “decrowed” roosters<sup>162</sup>: some veterinarians used to offer a “decrowing” procedure that would remove the rooster's voicebox. Because of its high mortality rate—over 50%—veterinarians no longer offer this procedure.<sup>163</sup> Because this procedure is dangerous and cruel to the rooster, cities that have such an exception should consider amending it so as not to encourage mistreatment of roosters.

#### E. Hens Don't Need Roosters to Lay Eggs

A common myth is that hens will not lay eggs without a rooster around. This is simply not true; hens do not need roosters to lay eggs.<sup>164</sup> In fact, it is likely that every egg you have ever eaten was produced by a hen that never met a rooster.<sup>165</sup>

The only reason that hens require roosters is to fertilize the eggs, so that the eggs will hatch chicks.<sup>166</sup> Because this can be an easier way to propagate a flock, rather than sending away for mail-order chicks, some chicken owners would like to keep a rooster around or at least allow it to visit. To address this concern, at least one city that bans roosters allows “conjugal visits.” Hopewell Town-

ship, New Jersey, allows roosters that are certified disease-free to visit a hen flock for 10 days out of every year.<sup>167</sup> Although news about the township's policy garnered national attention for its quirkiness, it may work as a solution for hen owners seeking to add to their flock without having to buy new chicks.<sup>168</sup>

### IV. The Current State of Municipal Ordinances Governing Backyard Chickens

Such a fine pullet ought to go  
All coiffured to a winter show,  
And be exhibited, and win.  
The answer is this one has been—

And come with all her honors home.  
Her golden leg, her coral comb,  
Her fluff of plumage, white as chalk,  
Her style, were all the fancy's talk

Robert Frost, *A Blue Ribbon at Amesbury* (1916).

#### A. Introduction

To determine the current state of chicken legislation in the United States, the laws of the top 100 cities by population, according to the 2000 census are surveyed in this Article.<sup>169</sup> Currently, 94% of these cities allow for chickens in some manner.<sup>170</sup> While many cities impose various restrictions

167. *NJ Town Limits Conjugal Visits Between Roosters & Hens*, HUFFINGTON POST, Apr. 27, 2011, [http://www.huffingtonpost.com/2011/04/28/nj-limits-chicken-mating\\_n\\_854404.html](http://www.huffingtonpost.com/2011/04/28/nj-limits-chicken-mating_n_854404.html).

168. Because chick hatcheries have been a source of salmonella, some backyard hen keepers may prefer to propagate their own flock. See, e.g., Serena Gordon, *They're Cute, But Baby Chicks Can Harbor Salmonella*, U.S. NEWS & WORLD REPORT, May 30, 2012, <http://health.usnews.com/health-news/news/articles/2012/05/30/theyre-cute-but-baby-chicks-can-harbor-salmonella>.

169. *Cities With 100,000 or More Population in 2000 Ranked by Population, 2000 in Rank Order*, U.S. CENSUS, <http://www.census.gov/statab/cdb/cit1020r.txt> (last visited Jan. 26, 2012).

170. AKRON, OHIO, CODE OF ORDINANCES §92-18 (2011); ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-4-3 (2011); ANAHEIM, CAL., MUN. CODE §18.38.030 (2011); ANCHORAGE, ALASKA, CODE OF ORDINANCES tit. 17, 21 (2011); ARLINGTON, TEX., ORDINANCES GOVERNING ANIMALS §5.02 (2010); ATLANTA, GA., CODE OF ORDINANCES §18-7 (2011); AUGUSTA-RICHMOND, GA., CODE OF ORDINANCES tit. 4, art. 2 (2007); AURORA, COLO., CODE OF ORDINANCES §14-8 (2011); AUSTIN, TEX., CODE OF ORDINANCES tit. III, ch. 3.1.1 (2011); BALTIMORE, MD., HEALTH CODE §10-312 (2011); BAKERSFIELD, CAL., MUN. CODE §6.08.10 (2011); BATON ROUGE, LA., CODE OF ORDINANCES §14:224 (2011); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007); BOS., MASS., CODE OF ORDINANCES §16-1.8A (2010); BUFFALO, N.Y., CITY CODE §341-11 (2009); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102 (2010); CHESAPEAKE, VA., CODE OF ORDINANCES ch. 10 (2011); *id.* ZONING art. 3; CHI., ILL., CODE OF ORDINANCES §17-12-300 (2011); CINCINNATI, OHIO, CODE OF ORDINANCES ch. 701 (2011); CLEVELAND, OHIO, CODIFIED ORDINANCES §205.04, 347.02 (2011); COLORADO SPRINGS, COLO., CITY CODE §6.7.106(D) (2011); COLUMBUS, OHIO, CITY CODE tit. III, ch. 221 (2011); CORPUS CHRISTI, TEX., CODE OF ORDINANCES §§6-153, 6-154 (2011); DALLAS, TEX., CODE OF ORDINANCES §7-1.1 (2011); DENVER, COLO., MUN. CODE §8-91 (2011); DES MOINES, IOWA, CODE OF ORDINANCES §18-4 (2011); EL PASO, TEX., MUN. CODE §7.24.020 (2011); FORT WORTH, TEX., CODE OF ORDINANCES §11A-22 (2011); FREMONT, CAL., MUN. CODE §3-5803 (2011); FRESNO, CAL., MUN. CODE §§10.201-10.205 (2011); GARLAND, TEX., CODE OF

157. Gehrt, *supra* note 154, at 1053.

158. WILLIAMS, *supra* note 75, at 88-89.

159. HEINRICHS, *supra* note 39, at 16.

160. *Id.*

161. APPLEBY ET AL., *supra* note 136, at 36-37.

162. See, e.g., PHOENIX, ARIZ., CITY CODE §8-7(c) (2011).

163. *Small and Backyard Flocks*, KY. U. EXT., <http://www.ca.uky.edu/smallflocks/faq.html#Q31> (last visited Feb. 17, 2012).

164. *Small and Backyard Flocks*, KY. U. EXT., <http://www.ca.uky.edu/smallflocks/faq.html#Q11> (last visited Feb. 17, 2012).

165. *Id.*

166. *Id.*



on keeping chickens through zoning, setbacks, and permitting requirements, only three of the top 100 cities have ordinances that clearly ban the keeping of chickens within city limits: Detroit, Aurora, and Yonkers.<sup>171</sup> Three others have unclear ordinances that city officials have interpreted as banning backyard chickens: Grand Rapids, Fort Wayne, and Lubbock.<sup>172</sup> An additional 10 cities, while allowing for chickens, restrict them to either very large lots or only to

agriculturally zoned land.<sup>173</sup> Because such restrictions will exclude most people within the city from being able to keep hens, if such restrictions are interpreted to be a ban on chickens, then 84% of cities can be considered to allow for chickens.

Within that 84%, there is a wide range of how cities regulate chickens—ranging from no regulation<sup>174</sup> to a great deal of very specific ordinances governing where chickens can be located,<sup>175</sup> how coops must be built,<sup>176</sup> and how often chickens must be fed and coops must be cleaned.<sup>177</sup> Some of these cities also have restrictive setbacks or other regulations that will prohibit some residents from owning chickens—especially residents in multi-family dwellings or who live on small lots in a dense area of the city.<sup>178</sup> As described more fully below, there is no uniformity in the ways that cities regulate chickens; each city's ordinance is unique. Regulations are placed in different areas of a city's codified ordinances. Some regulations are spread throughout the code, making it difficult for a chicken owner to determine how to comply with the city's ordinances. Some cities regulate through zoning, others through animal regulations, and others through the health code.<sup>179</sup> Some cities simply define chickens as pets and provide no regulations at all.<sup>180</sup> Each of these methods of regulation will be explored in more detail below.

Although other surveys of urban chicken laws have been done, no basis was given for the choice of the cities sur-

ORDINANCES §22.14 (2011); GLENDALE, ARIZ., CODE OF ORDINANCES pt. II, art. 5 (2010); GLENDALE, CAL., MUN. CODE §6.04.130 (2011); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011); HIALEAH, FLA., CODE OF ORDINANCES §10.1, 10.2 (2011); HONOLULU, HAW., REV. ORDINANCES §7-2.5(d) (1990); HOUSTON, TEX., CODE OF ORDINANCES ch. 6, art. II (2010); INDIANAPOLIS, IND., REV. CODE tit. III, ch. 531 (2011); IRVING, TEX., CODE OF ORDINANCES 6-1 (2011) (not regulating chickens at all); JACKSONVILLE, FLA., ORDINANCE CODE tit. XIII, ch. 462, tit. XVII, ch. 656 (2011); JERSEY CITY, N.J., CODE OF ORDINANCES §90-6 (2011); KANSAS CITY, MONT., CODE OF ORDINANCES §14-15 (2011); LAS VEGAS, NEV., MUN. CODE §7.38.050 (2011); LEXINGTON-FAYETTE, KY., CODE OF ORDINANCES §4-10 (2011); LINCOLN, NEB., MUN. CODE §6.04.040 (2011); LONG BEACH, CAL., MUN. CODE §6.20.020 (2011); L.A., CAL., MUN. CODE §§12.01, 12.05-12.09 (2011); LOUISVILLE, KY., METRO CODE ch. 91 (2011); MADISON, WIS., CODE OF ORDINANCES ch. 28 (no date listed); *id.* §7.29; *id.* §9.52; MEMPHIS, TENN., CODE OF ORDINANCES §8-8-1 (2009); MESA, ARIZ., CITY CODE §8-6-21 (2011); MIAMI, FLA., CODE OF ORDINANCES §6-1(b) (2011); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5 (2011); MINNEAPOLIS, MINN., CODE OF ORDINANCES §70.10 (2011); MOBILE, ALA., CODE OF ORDINANCES §7-102 (2011); MONTGOMERY, ALA., CODE OF ORDINANCES ch. 4, art. I (2011); *id.* app. C, art. VII; NASHVILLE-DAVIDSON, TENN., MUN. CODE §§8-12-020, 17-16-330 (2011); NEW ORLEANS, LA., CODE OF ORDINANCES pt. II, ch. 18, art. VI (2011); N.Y.C., MUN. CODE §65-23 (1990); NEWARK, N.J., GENERAL ORDINANCES §6:2-30 (2010); NORFOLK, VA., CODE OF ORDINANCES §§4-05, 6.1-7 (2011); OAKLAND, CAL., CODE OF ORDINANCES §6-04-320 (2011); OKLAHOMA CITY, OKLA., MUN. CODE tit. 8, 59 (2011); OMAHA, NEB., CODE OF ORDINANCES §6-266 (2011); PHILA., PA., CODE §10-112 (2011); PHOENIX, ARIZ., CITY CODE §§8-7, 8-10 (2011); PITTSBURGH, PA., CODE OF ORDINANCES §§635.02, 911.04.A.2 (2011); PLANO, TEX., CODE OF ORDINANCES §4-184 (2011); PORTLAND, OR., CITY CODE §13.05.015 (2011); RALEIGH, N.C., CODE OF ORDINANCES §12-3001, 12-3004 (2011); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011); RIVERSIDE, CAL., CODE OF ORDINANCES §6.04.20 (2011); *id.* tit. 17; ROCHESTER, N.Y., CITY ORDINANCES §§30-12, 30-19 (no date listed); SACRAMENTO, CAL., CITY CODE §9-44-340 (2011); ST. LOUIS, MO., CODE OF ORDINANCES §10.20.015 (2010); ST. PAUL, MINN., §198.02 (2011); ST. PETERSBURG, FLA., CODE OF ORDINANCES §4-31 (2011); SAN ANTONIO, TEX., CODE OF ORDINANCES §5-109 (2011); SAN DIEGO, CAL., MUN. CODE §42.0709 (2011); SAN FRANCISCO, CAL., HEALTH CODE §37 (2011); SAN JOSE, CAL., CODE OF ORDINANCES tit. 7 (2007); SANTA ANA, CAL., CODE OF ORDINANCES §5.6 (2011); SCOTTSDALE, ARIZ., CODE OF ORDINANCES §4-17 (2011); SEATTLE, WASH., MUN. CODE §23.42.052 (2011); SHREVEPORT, LA., CODE OF ORDINANCES ch. 106 (2011); SPOKANE, WASH., MUN. CODE §17C.310.010 (no date listed); STOCKTON, CAL., MUN. CODE §6.04.420, 16.80.060 (2011); TACOMA, WASH., MUN. CODE §5.30.010 (2011); TAMPA, FLA., CODE OF ORDINANCES §19.76 (2008); TUCSON, ARIZ., CODE OF ORDINANCES ch. 4, art. VI (2011); TOLEDO, OHIO, MUN. CODE §§505.07(a)(4), 1705.07 (2011); TULSA, OKLA., CODE OF ORDINANCES §200(d)(e) (2011); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.1 (no date listed); WICHITA, KAN., CODE OF ORDINANCES §6.04.157 (2011).

171. AURORA, COLO., CODE OF ORDINANCES §14-8 (2011); DETROIT, MICH., CITY CODE §6-1-3 (2010); YONKERS, N.Y.C., MUN. CODE §65-23 (1990).

172. FORT WAYNE, IND., CODE OF ORDINANCES §157.104 (2011) (banning livestock within the city, even though chickens are not listed in the definition of livestock, the animal control department says that the city interprets chicken as livestock); GRAND RAPIDS, MICH., CODE OF ORDINANCES §8.582 (2010) ("No farm animal shall be kept or allowed to be kept within any dwelling or dwelling unit or within one hundred (100) feet of any dwelling, dwelling unit, well, spring, stream, drainage ditch or drain."); LUBBOCK, TEX., CITY ORDINANCE §4.07.001 (2011) (permitting chickens "in those areas appropriately permitted by the zoning ordinances of the city" when zoning ordinances are silent).

173. BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007) (restricting chickens to land zoned for agricultural use); CHESAPEAKE, VA., CODE OF ORDINANCES ch. 10 (2011); *id.* ZONING art. 3 (restricting to low-density zones and restricting to properties of one acre or more); HIALEAH, FLA., CODE OF ORDINANCES §§10.1, 10.2 (2011) (restricting chickens to land zoned for agricultural use); JACKSONVILLE, FLA., ORDINANCE CODE tit. XIII, ch. 462, tit. XVII, ch. 656 (2011) (restricting chickens to agricultural or low-density residential zones); MONTGOMERY, ALA., CODE OF ORDINANCES ch. 4 art. I (2011); *id.* app. C, art. VII (restricting chickens to agricultural or low-density residential zones); NORFOLK, VA., CODE OF ORDINANCES, app. A, art. II, §4-0.5 (2011) (restricting chickens to properties of five acres or more); OKLAHOMA CITY, OKLA., MUN. CODE tit. 8, 59 (2011) (restricting chickens to properties with one acre or more); PHILA., PA., CODE OF ORDINANCES §10-112 (2011) (restricting chickens to properties with three acres or more); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011) (restricting chickens to properties with one acre or more); VIRGINIA BEACH, VA., CITY CODE §5-545, app. A (2011) (restricting chickens to land zoned for agricultural use).

174. *E.g.*, N.Y.C., MUN. CODE §65-23 (1990) (only regulating chickens if they are kept for sale: "A person who holds a permit to keep for sale or sell live rabbits or poultry shall keep them in coops and runways and prevent them from being at large."); CHI., ILL., CODE OF ORDINANCES §17-12-300 (2011) ("No person shall own keep, or otherwise possess, or slaughter any . . . poultry, rabbit, dog, cat, or any other animal intending to use such animal for food purposes.") Chicago's ordinance has been interpreted to allow keeping chickens for eggs. Kara Spak, *Raising Chickens Legal in Chicago, and People Are Crowing About It*, CHI. SUN TIMES, Aug. 13, 2011, <http://www.suntimes.com/news/metro/6942644-418/city-of-chicken-coops.html>; IRVING, TEX., CODE OF ORDINANCES 6-1 (2011) (not regulating chickens).

175. *See infra* V.C.2

176. *See infra* V.C.5.c.

177. *See infra* V.C.5.b.

178. *See infra* V.C.4.

179. *See infra* V.B.

180. *See infra* V.A.

veyed<sup>181</sup> and the survey sizes were far smaller.<sup>182</sup> By choosing the largest cities in the United States by population, this survey is meant to give a snapshot of what kind of laws govern the most densely populated urban areas. An understanding of how large cosmopolitan areas approach backyard chickens can help smaller cities determine the best way to fashion an ordinance.<sup>183</sup>

Several aspects of these ordinances will be examined. First, the area within the codified ordinances that the city chooses to regulate chickens will be discussed.<sup>184</sup> Next, regulations based on space requirements, zoning requirements, and setbacks will be examined.<sup>185</sup> After that, the different sorts of sanitation requirements that cities impose will be examined, including looking at how specific or general those requirements are.<sup>186</sup> Then, the coop construction requirements, including how much space a city requires per chicken, will be examined.<sup>187</sup> Next, cities' use of permits to regulate chickens will be evaluated.<sup>188</sup> The Article will then discuss anti-slaughter laws.<sup>189</sup> Finally, the prevalence of banning roosters will be discussed, while noting

that quite a few cities do expressly allow roosters.<sup>190</sup> Examining each aspect of the ordinance piecemeal is designed to provide a thorough overview of ordinances regulating backyard chickens and classification of common concerns. Through this review, regulatory norms will be identified and especially effective, novel, or eccentric regulations will be noted.

Norms and effective regulations will be taken into account in constructing a model ordinance. The most thoughtful, effective, and popular regulations from each of these ordinances will be incorporated into these recommendations. Also, data discussed in the first part of this Article about chickens, chicken behavior, and chicken-keeping will inform the model ordinance.

But, before delving into each of these aspects of the ordinances, some more general impressions from this analysis will be discussed. These more general impressions will include identifying some themes in these regulations based on population size and region.

## I. The More Populous the City, the More Likely It Is to Allow for Backyard Chickens

When reviewing the overall results of the survey concerning whether a city allows chickens or bans them, a pattern emerges based on population size. At least among the top 100 cities by population, the smaller the city, the greater the chance that the city will ban chickens. Of the top 10 cities by population, all of them allow for chickens in some way.<sup>191</sup> Of those top 10 cities, however, Philadelphia has fairly strict zoning restrictions that only allows chickens in lots of three acres or larger.<sup>192</sup> And, of the top 50 cities by population, only one city bans chickens outright: Detroit.<sup>193</sup>

But in the last 20 of the top 100 cities, four of them ban chickens: Yonkers, Grand Rapids, Fort Wayne, and Lubbock.<sup>194</sup> So, within that subset, only 80% of the cit-

181. See Orbach & Sjöberg, *Debating Backyard Chickens*; Sarah Schindler, *Of Backyard Chickens and Front Yard Garden: The Conflict Between Local Government and Locavores*, 87 TUL. L. REV. (forthcoming Nov. 2, 2012); Patricia Salkin, *Feeding the Locavores, One Chicken at a Time: Regulating Backyard Chickens*, 34:3 ZONING & PLAN. L. REP. 1 (Mar. 2011); Kieran Miller, *Backyard Chicken Policy: Lessons From Vancouver, Seattle, and Niagara Falls*, QSPACE AT QUEENS U. (2011), <http://qspace.library.queensu.ca/handle/1974/6521>; Katherine T. Labadie, *Residential Urban Keeping: An Examination of 25 Cities*, U.N.M. RESEARCH PAPER (2008) [http://www.google.com/url?sa=t&rc=t=j&q=&esrc=s&source=web&cd=1&ved=0CE0QFjAA&url=http%3A%2F%2F66.147.242.185%2F-urbanch5%2Fwp-content%2Fuploads%2F2012%2F02%2FOrdinance-research-paper.pdf&ei=f\\_T5T8jOLCjrjgGp5NGKCQ&usq=AFQjCNE-ArE\\_uYe4XcKDFhMrwS4mOLfQw&sig2=UcWfdU1smoifnqTiE\\_vvA](http://www.google.com/url?sa=t&rc=t=j&q=&esrc=s&source=web&cd=1&ved=0CE0QFjAA&url=http%3A%2F%2F66.147.242.185%2F-urbanch5%2Fwp-content%2Fuploads%2F2012%2F02%2FOrdinance-research-paper.pdf&ei=f_T5T8jOLCjrjgGp5NGKCQ&usq=AFQjCNE-ArE_uYe4XcKDFhMrwS4mOLfQw&sig2=UcWfdU1smoifnqTiE_vvA); Jennifer Blecha, *Urban Life With Livestock: Performing Alternative Imaginaries Through Small Stock Urban Livestock Agriculture in the United States*, PROQUEST INFORMATION AND LEARNING COMPANY (2007). See also *Chicken L.O.R.E Project: Chicken Laws and Ordinances and Your Rights and Entitlements*, BACKYARD CHICKENS.COM, <http://www.backyardchickens.com/t/310268/chicken-lore-project-find-submit-local-chicken-laws-ordinances> (last visited Feb. 20, 2012) (providing an extensive community-created database of municipal chicken laws).

182. *Poultry 2010, Reference of the Health and Management of Chicken Stocks in Urban Settings in Four U.S. Cities*, USDA, May 2011 (studying the urban chicken population in Denver, Los Angeles, Miami, and New York City).

183. Also, this survey is necessarily frozen in time for publicly accessible ordinances as of December of 2011. This is because at least two cities have already changed their ordinances to allow for more comprehensive and permissive livestock regulations—Pittsburgh and San Diego. Diana Nelson-Jones, *Pittsburgh Urban Chicken Coop Tour to Be Held on Sunday*, PITTSBURGH POST-GAZETTE, June 9, 2011, <http://www.post-gazette.com/pg/11160/1152234-34.stm> (stating that Pittsburgh had amended its ordinances to allow for 3 chickens for every 2,000 square feet of property); Adrian Florino, *San Diego City Council Approves Backyard Chickens, Goats, and Bees*, KPBS, Feb. 1, 2012, <http://www.kpbs.org/news/2012/feb/01/san-diego-city-council-approves-backyard-chickens/>. These ordinances, however, have not yet been codified within the cities code and, thus, are not yet publicly accessible. Although this Article intends to use the most recent ordinances, because of the size of the sample, and because of the scattered news coverage and the significant lag time in updating city codes, the author cannot be sure that other cities have not amended their ordinances. Thus, this study can do no more than provide a snapshot in time for these ordinances.

184. *Infra* V.B.

185. *Infra* V.C.1-4.

186. *Infra* V.C.5.

187. *Infra* V.C.5.

188. *Infra* V.C.6.

189. *Infra* V.C.7.

190. *Infra* V.C.8.

191. The top 10 cities by population from most populous to least populous: N.Y.C., MUN. CODE §65-23 (1990); L.A., CAL., MUN. CODE §§12.01, 12.05-12.09 (2011); PHILA., PA., CODE §10-112 (2011); CHI., ILL., CODE OF ORDINANCES §17-12-300 (2011); PHOENIX, ARIZ., CITY CODE §8-7, 8-10 (2011); SAN DIEGO, CAL., MUN. CODE §42.0709 (2011); DALLAS, TEX., CODE OF ORDINANCES §7-1.1 (2011); SAN ANTONIO, TEX., CODE OF ORDINANCES §5-109 (2011); HOUSTON, TEX., CODE OF ORDINANCES ch. 6, art. II (2010).

192. PHILA., PA., CODE §10-112 (2011).

193. DETROIT, MICH., CITY CODE §6-1-3 (2010).

194. The last 20 of the top 100 cities from most populous to least populous: GLENDALE, ARIZ., CODE OF ORDINANCES pt. II, art. 5 (2010); AKRON, OHIO, CODE OF ORDINANCES §92-18 (2011); GARLAND, TEX., CODE OF ORDINANCES §22.14 (2011); MADISON, WIS., CODE OF ORDINANCES ch. 28 (no date listed); *id.* §7.29; *id.* §9.52; FORT WAYNE, IND., CODE OF ORDINANCES §157.104 (2011); FREMONT, CAL., MUN. CODE §3-5803 (2011); SCOTTSDALE, ARIZ., CODE OF ORDINANCES §4-17 (2011); MONTGOMERY, ALA., CODE OF ORDINANCES ch. 4 art. I (2011); *id.* app. C, art. VII; SHREVEPORT, LA., CODE OF ORDINANCES ch. 106 (2011); LUBBOCK, TEX., CITY CODE §4.07.001 (2011); CHESAPEAKE, VA., CODE OF ORDINANCES ch. 10 (2011); *id.* ZONING art. 3; MOBILE, ALA., CODE OF ORDINANCES §7-102 (2011); DES MOINES, IOWA, CODE OF ORDINANCES §18-4 (2011); GRAND RAPIDS, MICH., CODE OF ORDINANCES §8.582 (2010); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011); YONKERS, N.Y., §65-23 (1990); SPOKANE, WASH., MUN. CODE §17C.310.100 (no date listed); AUGUSTA-

ies allow for chickens. This may go against popular belief that chickens would be more prevalent in bucolic suburbs and less popular in densely populated cosmopolitan areas. Because this survey only includes large urban areas, the percentage of smaller cities, suburbs, and exurbs that allow for chickens is not known. But, based on this limited survey, it appears that more populous cities have largely accepted chickens, and the pursuit of more chicken-friendly legislation has moved to smaller cities and the suburbs.

## 2. Some Regional Observations

Although it is difficult to draw regional distinctions from a limited set of data, it does appear that the states in what is colloquially called the Rustbelt are more likely to ban chickens. In Michigan, both cities within the top 100, Detroit and Grand Rapids, ban chickens.<sup>195</sup> And in Pennsylvania, similarly, both of its most populated cities, for the most part, ban chickens.<sup>196</sup> Philadelphia only allows chickens on lots of three acres or more—far more than the average lot size in Philadelphia.<sup>197</sup> Pittsburgh, although it recently amended its ordinances,<sup>198</sup> used to allow chickens only on parcels of five acres or more.<sup>199</sup> In either event, in both cities, keeping chickens is limited to property sizes that are far larger than the average for an urban area.

Within the Rustbelt states, Ohio stands out for legalizing chickens. All five of its major cities currently allow for chickens: Akron, Cincinnati, Cleveland, Columbus, and Toledo.<sup>200</sup> Columbus and Akron have far more restrictive

ordinances, however. Columbus requires a permit to keep chickens and allows its Health Commissioner discretion over granting and revoking that permit.<sup>201</sup> Akron requires chickens to be kept at least 100 feet from any dwelling, which will restrict owners of small parcels in densely populated areas from raising chickens.<sup>202</sup>

In 2009, Cleveland passed a comprehensive ordinance legalizing chickens and bees.<sup>203</sup> Cleveland allows for one chicken per 800 square feet, which would allow up to six chickens on a standard residential lot.<sup>204</sup> Cleveland also has minimal setbacks and detailed coop requirements.<sup>205</sup> And Cincinnati and Toledo have even more liberal ordinances, allowing for chickens as long as they do not create a nuisance.<sup>206</sup>

Virginia also stands out for restricting chickens. All four of Virginia's cities within the top 100 cities by population—Chesapeake, Norfolk, Richmond, and Virginia Beach—restrict chickens to large lots or to lands zoned agricultural.<sup>207</sup>

## B. Where Regulations Concerning Chickens Are Placed Within a City's Codified Ordinances

The survey reveals that there is little consistency in where cities choose to locate chicken regulations within their codified ordinances. Most cities regulate chickens in sections devoted to animals, zoning, health, or nuisances. Each method of regulation will be examined for how often it is used and how effective it is.

RICHMOND, GA., CODE OF ORDINANCES tit. 4, art. 2 (2007); GLENDALE, CAL., MUN. CODE §6.04 (2011); TACOMA, WASH., MUN. CODE §5.30.010 (2011); IRVING, TEX., CODE OF ORDINANCES pt. II, ch. 6 (2011).

195. DETROIT, MICH., CITY CODE §6-1-3 (2010) (prohibits owning farm animals and defines chickens as farm animals); GRAND RAPIDS, MICH., CODE OF ORDINANCES §8.582 (2010) (prohibiting farm animals within 100 ft. of any dwelling unit, well, spring, stream, drainage ditch, or drain. City officials have interpreted this to ban chickens.); *but see* ANN ARBOR, MICH., CODE OF ORDINANCES tit. IX, ch. 107, §9:42 (allowing up to four chickens in single-family or two-family dwellings if a permit is secured and regulations are followed).

196. PHILA. §10-112; PITTSBURGH, PA., CODE OF ORDINANCES §§635.02, 911.04.A.2 (2011).

197. Susan Wachter, *The Determinants of Neighborhood Transformations in Philadelphia Identification and Analysis: The New Kensington Pilot Study*, Spring 2005, THE WHARTON SCHOOL, [http://www.google.com/url?sa=t&rcit=j&q=&esrc=s&source=web&cd=1&ved=0CCMQFjAA&url=http%3A%2F%2Fkabbaffiliates.org%2FuploadedFiles%2FKAB\\_Affiliates.org%2FWharton%2520Study%2520NK%2520final.pdf&ei=X40hT56\\_OOjCsQLogpyhCQ&usg=AFQjCNH-DYO3ImfVNsESWY6QZ9-79aW87A&sig2=C2IvyXmR7twhY4K5RZYk-A](http://www.google.com/url?sa=t&rcit=j&q=&esrc=s&source=web&cd=1&ved=0CCMQFjAA&url=http%3A%2F%2Fkabbaffiliates.org%2FuploadedFiles%2FKAB_Affiliates.org%2FWharton%2520Study%2520NK%2520final.pdf&ei=X40hT56_OOjCsQLogpyhCQ&usg=AFQjCNH-DYO3ImfVNsESWY6QZ9-79aW87A&sig2=C2IvyXmR7twhY4K5RZYk-A) (last visited Jan. 26, 2012) (finding that the average lot size within the New Kensington area of Philadelphia was just over 1,000 square feet).

198. Diana Nelson-Jones, *Pittsburgh Urban Chicken Coop Tour to Be Held on Sunday*, PITTSBURGH POST-GAZETTE, June 9, 2011, <http://www.post-gazette.com/pg/11160/1152234-34.stm> (stating that Pittsburgh had amended its ordinances to allow for three chickens for every 2,000 square feet of property).

199. PITTSBURGH, PA., CODE OF ORDINANCES §911.04(A)(2) (2011).

200. AKRON, OHIO, CODE OF ORDINANCES §92-18 (2011); CINCINNATI, OHIO, CODE OF ORDINANCES ch. 701 (2011); CLEVELAND, OHIO, CODIFIED ORDINANCES §§205.04, 347.02 (2011); COLUMBUS, OHIO, CITY CODE tit. III, ch. 221 (2011); TOLEDO, OHIO, MUN. CODE §§505.07(a)(4), 1705.07 (2011).

201. COLUMBUS §221.05:

The Health Commissioner may grant permission only after it is determined that the keeping of such animals: (1) creates no adverse environmental or health effects; (2) is in compliance with all other sections of this chapter; and (3) in the judgment of the Health Commissioner, after consultation with the staff of the Health Department and with the surrounding occupants of the place of keeping such animals, and considering the nature of the community (i.e., residential or commercial single or multiple dwellings, etc.), is reasonably inoffensive. The health commissioner may revoke such permission at any time for violation of this chapter or any other just cause.

202. AKRON §92-18.

203. CLEVELAND §§347.02 & 205.04.

204. *Id.*

205. *Id.*

206. CINCINNATI §701-17; *id.* §00053-11 (“No live geese, hens, chickens, pigeons, ducks, hogs, goats, cows, mules, horses, dogs, cats, other fowl or any other domestic or non-domestic animals shall be kept in the city so as to create a nuisance, foul odors, or be a menace to the health of occupants or neighboring individuals.”); TOLEDO §§1705.05 & 505.07 (“No person shall keep or harbor any animal or fowl in the City so as to create noxious or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.”).

207. CHESAPEAKE, VA., CODE OF ORDINANCES ch. 10 (2011); *id.* ZONING art. 3 (restricting to low-density zones and restricting to properties of one acre or more); NORFOLK, VA., CODE OF ORDINANCES, app. A, art. II §4-0.5 (2011) (restricting chickens to properties of five acres or more); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011) (restricting chickens to properties with one acre or more); VIRGINIA BEACH, VA., CITY CODE §5-545, app. A (2011) (restricting chickens to land zoned for agricultural use).



## I. Animal Control Regulations

Seventy-one of the cities regulate chickens under their animal control ordinances.<sup>208</sup> This makes sense, because chickens are animals and this is the natural place for would-be chicken owners to look to make sure that they won't get into legal trouble. Regulating chickens under animal control also leads to fairly easy-to-follow ordinances. Chickens are either allowed, or they are not. And, if there are further regulations concerning lot size, setbacks, or coop requirements, they are usually all in one place.

208. AKRON, OHIO, CODE OF ORDINANCES §92-18 (2011); ANCHORAGE, ALASKA, CODE OF ORDINANCES tit. 17, 21 (2011); AUGUSTA-RICHMOND, GA., CODE OF ORDINANCES tit. 4, art. 2 (2007); AURORA, COLO., CODE OF ORDINANCES §14-8 (2011); AUSTIN, TEX., CODE OF ORDINANCES tit. III, ch. 3.1.1 (2011); ATLANTA, GA., CODE OF ORDINANCES §18-7 (2011); BAKERSFIELD, CAL., MUN. CODE §6.08.10 (2011); BALTIMORE, MD., HEALTH CODE §10-312 (2011); BATON ROUGE, LA., CODE OF ORDINANCES §14:224 (2011); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102 (2010); CINCINNATI, OHIO, CODE OF ORDINANCES ch. 701 (2011); COLORADO SPRINGS, COLO., CITY CODE §6.7.106(D) (2011); CORPUS CHRISTI, TEX., CODE OF ORDINANCES §§6-153, 6-154 (2011); DALLAS, TEX., CODE OF ORDINANCES §7-1.1 (2011); DENVER, COLO., MUN. CODE §8-91 (2011); DES MOINES, IOWA, CODE OF ORDINANCES §18-4 (2011); DETROIT, MICH., CITY CODE §6-1-3 (2010); EL PASO, TEX., MUN. CODE §7.24.020 (2011); FREMONT, CAL., MUN. CODE §3-5803 (2011); GARLAND, TEX., CODE OF ORDINANCES §22.14 (2011); GLENDALE, ARIZ., CODE OF ORDINANCES pt. II, art. 5 (2010); GLENDALE, CAL., MUN. CODE §6.04 (2011); GRAND RAPIDS, MICH., CODE OF ORDINANCES §8.582 (2010); HIALEAH, FLA., CODE OF ORDINANCES §§10.1, 10.2 (2011); HONOLULU, HAW., REV. ORDINANCES §7-2.5(d) (1990); HOUSTON, TEX., CODE OF ORDINANCES ch. 6, art. II (2010); INDIANAPOLIS, IND., REV. CODE tit. III, ch. 531 (2011); IRVING, TEX., CODE OF ORDINANCES 6-1 (2011); JERSEY CITY, N.J., CODE OF ORDINANCES §90-6 (2011); KANSAS CITY, MO., CODE OF ORDINANCES §14-15 (2011); LAS VEGAS, NEV., MUN. CODE §7.38.050 (2011); LEXINGTON-FAYETTE, KY., CODE OF ORDINANCES §4-10 (2011); LINCOLN, NEB., MUN. CODE §6.04.040 (2011); LONG BEACH, CAL., MUN. CODE §6.20.020 (2011); LOUISVILLE, KY., METRO CODE ch. 91 (2011); MEMPHIS, TENN., CODE OF ORDINANCES §8-8-1 (2009); MIAMI, FLA., CODE OF ORDINANCES §6-1(b) (2011); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5 (2011); MINNEAPOLIS, MINN., CODE OF ORDINANCES §70.10 (2011); MOBILE, ALA., CODE OF ORDINANCES §7-102 (2011); MONTGOMERY, ALA., CODE OF ORDINANCES ch. 4, art. I (2011); *id.* app. C, art. VII; NEWARK, N.J., GEN. ORDINANCES §6:2-29 (2010); NEW ORLEANS, LA., CODE OF ORDINANCES pt. II, ch. 18, art. VI (2011); N.Y.C., MUN. CODE §65-23 (1990); NORFOLK, VA., CODE OF ORDINANCES §§4-05, 6.1-7 (2011); OAKLAND, CAL., CODE OF ORDINANCES §6-04-320 (2011); OKLAHOMA CITY, OKLA., MUN. CODE tit. 8, 59 (2011); OMAHA, NEB., CODE OF ORDINANCES §6-266 (2011); PHILA., PA., CODE §10-112 (2011); PHOENIX, ARIZ., CITY CODE §§8-7, 8-10 (2011); PITTSBURGH, PA., CODE OF ORDINANCES §§635.02, 911.04.A.2 (2011); PLANO, TEX., CODE OF ORDINANCES §4-184 (2011); PORTLAND, OR., CITY CODE §13.05.015 (2011); RALEIGH, N.C., CODE OF ORDINANCES §§12-3001, 12-3004 (2011); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011); ROCHESTER, N.Y., CITY ORDINANCES §30-12, 30-19 (no date listed); SACRAMENTO, CAL., CITY CODE §9-44-340 (2011); ST. LOUIS, MO., CODE OF ORDINANCES §10.20.015 (2010); ST. PETERSBURG, FLA., CODE OF ORDINANCES §4-31 (2011); ST. PAUL, MINN., §198.02 (2011); SAN ANTONIO, TEX., CODE OF ORDINANCES §5-109 (2011); SAN JOSE, CAL., CODE OF ORDINANCES tit. 7 (2007); SANTA ANA, CAL., CODE OF ORDINANCES §5.6 (2011); SCOTTSDALE, ARIZ., CODE OF ORDINANCES §4-17 (2011); STOCKTON, CAL., MUN. CODE §6.04.420, 16.80.060 (2011); TOLEDO, OHIO, MUN. CODE §505.07(a)(4); TUCSON, ARIZ., CODE OF ORDINANCES ch. 4, art. VI (2011); TULSA, OKLA., CODE OF ORDINANCES §200(d)(e) (2011); VIRGINIA BEACH, VA., CITY CODE §5-545, app. A (2011); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.1 (no date listed); WICHITA, KAN., CODE OF ORDINANCES §6.04.157 (2011); YONKERS, N.Y., §65-23 (1990).

## 2. Zoning Regulations

Fourteen cities regulate chickens primarily under their zoning laws.<sup>209</sup> These cities are much more likely to substantially restrict raising hens.<sup>210</sup> It also makes it much more difficult for a resident to determine whether he can legally raise chickens. Such a resident must not only determine in what zone chickens may be raised, but he must also determine whether his property falls within that zone. These laws also tend to sow unnecessary confusion. For instance, Lubbock Texas' law on paper would seem to allow for hens, but the city has exploited its vagaries to ban backyard chickens. Lubbock creates a loop within its ordinances by providing within the animal section of its code that chickens are allowed if the zoning ordinance permits it,<sup>211</sup> and then providing in its zoning ordinance that chickens are allowed if the animal code permits it.<sup>212</sup> The Lubbock city clerk resolved the loop by stating that the city interprets these provisions to entirely ban chickens within the city.<sup>213</sup>

Finally, cities that regulate chickens primarily through zoning laws do so, presumptively, because they want to restrict raising chickens to certain zones. This, however, can cause unnecessary complications. Raising chickens is not only for residential backyards. Because of declining population and urban renewal projects in many cities, urban farms, market gardens, and community gardens are located in other zones, including business, commercial, and even industrial zones. Each time these farms or gardens would like to add a few chickens, they would have to petition the city for a zoning variance or seek a change in the law. This is not an efficient use of a city's limited resources.<sup>214</sup>

In addition, other regulations pertaining to chickens, such as setbacks, coop construction, or sanitary requirements, can get lost among the many building regulations within the zoning code. Zoning codes are generally written for an expert audience of businesses, builders, and developers, and not for the lay audience that would comprise

209. ANAHEIM, CAL., MUN. CODE §18.38.030 (2011); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007); CHESAPEAKE, VA., CODE OF ORDINANCES ch. 10 (2011); *id.* ZONING art. 3; FRESNO, CAL., MUN. CODE §§12-205.1-12-207.5 (2011); GLENDALE, CAL., MUN. CODE §6.04 (2011); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011); JACKSONVILLE, FLA., ORDINANCE CODE tit. XIII, ch. 462, tit. XVII, ch. 656 (2011); L.A., CAL., MUN. CODE §§12.01, 12.05-12.09 (2011); LUBBOCK, TEX., CITY CODE §4.07.001 (2011); MADISON, WIS., CODE OF ORDINANCES ch. 28 (no date listed); *id.* §7.29; SEATTLE, WASH., MUN. CODE §23.42.052; WASH., MUN. CODE OF ORDINANCES §6.04.20 (2011); *id.* tit. 17; *id.* §9.52; SHREVEPORT, LA., CODE OF ORDINANCES ch. 106 (2011); SPOKANE, WASH., MUN. CODE §17C.310.100.

210. Anaheim, Birmingham, Jacksonville, and Lubbock either ban hens altogether or restrict hens to certain zones. See ANAHEIM §18.38.030; BIRMINGHAM §2.4.1; JACKSONVILLE tit. XVIII, ch. 462, tit. XVII, ch. 656; LUBBOCK §4.07.001.

211. LUBBOCK §4.07.001.

212. *Id.* §40.03.3103.

213. See Interview with Lubbock city clerk (on file with author).

214. E.g., Schindler, *supra* note 181, 68-71 (arguing that the movement toward urban agriculture should cause cities to reconsider Euclidean zoning because such zoning no longer serves the needs of the cities and its residents).

chicken owners.<sup>215</sup> If cities are concerned about raising chickens too near businesses or neighbors, other regulations like setbacks from the street and neighboring properties can ameliorate this concern without having to include the regulation in the zoning code.

Regulations placed within the animal code, as described above, are generally in one place and often within a single ordinance. This leads to a better understanding of the law for chicken owners and, thus, easier enforcement for city officials. Unless the zoning regulations have a subsection devoted specifically to animals, like the ones in Spokane<sup>216</sup> or Greensboro,<sup>217</sup> the most sensible place for regulating chickens is within the animal code.

### 3. Health Code

Another popular place within a municipality's code to regulate chickens is within the health code. Seven cities regulate chickens primarily within the health code.<sup>218</sup> Many of these, however, have a separate section concerning animals or animal-related businesses within the health code.<sup>219</sup> Again, unless the code has such a separate section concerning animals, the better place to regulate is within the animal code.

### 4. Other

Of the remaining cities, there is very little uniformity. Two, Boston and Columbus, regulate through permit sections within their codified ordinances.<sup>220</sup> Because these cities require permits to keep chickens and give a great deal of discretion to city officials to grant or deny permits on a case-by-case basis, locating a chicken regulation within the permit section of the codified ordinance makes sense for those cities. But, as argued later, allowing such discretion is neither a good use of city resources nor a fair and consistent way to regulate chickens.

The only other pattern within these ordinances is that two other cities—Buffalo and Tampa—regulate chickens

under the property maintenance area of the code.<sup>221</sup> This is not an ideal place to locate such an ordinance, because potential chicken owners are unlikely to look for chicken regulations there.

Finally, one city—Arlington, Texas—places its chicken regulations in a section of the code entitled sale and breeding of animals.<sup>222</sup> Because backyard chicken owners generally do not raise their chickens for sale, and also likely do not consider themselves to be breeders, this area of the code is not well-suited to this regulation.

## C. How Cities Regulate Chickens

### 1. Chickens Are Defined as Pets or Domestic Animals

Seven cities—Dallas, Indianapolis, Jacksonville, New Orleans, Plano, Raleigh, and Spokane—define chickens as domestic animals or pets, and thus subject them to the same enclosure and nuisance regulations as other domestic animals like cats and dogs.<sup>223</sup> These cities' ordinances appear to be long-standing and were not recently modified in response to the backyard chicken movement.<sup>224</sup> While many cities may want to more explicitly regulate chickens, this is a workable approach. General nuisance laws already regulate things like odor and noise.<sup>225</sup> While many regulations particular to chickens duplicate nuisance ordinances, it is unclear whether such duplication actually reduces nuisances. More precise requirements on sanitation, coop standards, setbacks, and permits may signal to chicken owners that the city is serious about regulating chickens, protecting neighbors, and protecting the health and well-being of chickens. But, as chickens regain prevalence in urban areas, cities that regulate chickens as pets or domestic animals may find that—through inertia—they have taken the most efficient approach, both in terms of preserving city resources and curbing potential nuisances.

### 2. Space Requirements

Of the 94 cities that allow for raising chickens, 31 of them impose restrictions based upon how big the property is, either explicitly through lot size requirements, or implicitly through zoning requirements.<sup>226</sup> Of those, 16 cities restrict

215. See Lea S. VanderVelde, *Local Knowledge, Legal Knowledge, and Zoning Law*, IOWA L. REV., May 1990, at 1057 (describing zoning law as "arcane"). Also, the sheer number of law treatises for zoning laws demonstrates that zoning laws require expertise to navigate. *E.g.*, PATRICIA SALKIN, AMERICAN LAW OF ZONING (5th ed. 2012); JULIAN CONRAD JUERGENSMEYER & THOMAS E. ROBERTS, LAND USE PLANNING AND DEVELOPMENT REGULATION LAW (2d ed. 2003); EDWARD H. ZIEGLER JR., RATHKOPF'S THE LAW OF ZONING AND PLANNING (4th ed. 2012).

216. SPOKANE, WASH., MUN. CODE tit. 17C LAND USE STANDARDS, ch. 17C.310 ANIMAL KEEPING (no date listed).

217. GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011).

218. ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-4-3 (2011); CLEVELAND, OHIO, CODIFIED ORDINANCES §§205.04, 347.02 (2011); COLUMBUS, OHIO, CITY CODE tit. III, ch. 221 (2011); MESA, ARIZ., CITY CODE §8-6-21 (2011); SAN DIEGO, CAL., MUN. CODE §42.0709 (2011); SAN FRANCISCO, CAL., HEALTH CODE §37 (2011); TACOMA, WASH., MUN. CODE §5.30.010 (2011).

219. *E.g.*, SAN DIEGO §42.0709; CLEVELAND §§204.04, 347.02; TACOMA §5.3.010.

220. BOS., MASS., CODE OF ORDINANCES §16-1.8A (2010); COLUMBUS tit. III, ch. 221.

221. BUFFALO, N.Y., CITY CODE §341-11 (2009); TAMPA, FLA., CODE OF ORDINANCES §19.76 (2008).

222. ARLINGTON, TEX., ORDINANCES GOVERNING ANIMALS §5.02 (2010).

223. DALLAS, TEX., CODE OF ORDINANCES §7-1.1 (2011); INDIANAPOLIS, IND., REV. CODE tit. III, ch. 531.101 (2011); JACKSONVILLE, FLA., ORDINANCE CODE §656.1601 (2011); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1 (2011); RALEIGH, N.C., CODE OF ORDINANCES §12-3001 (2011); PLANO, TEX., CODE OF ORDINANCES §4-184 (2011); SPOKANE, WASH., MUN. CODE §17C.310.100 (no date listed).

224. *Supra* note 223.

225. Every city surveyed had general nuisance provisions in its code regulating odor and noise.

226. Cities that impose lot size requirements: Anaheim, Cleveland, Fort Wayne, Fremont, Garland, Greensboro, Nashville, Norfolk, Oklahoma, Philadelphia, Phoenix, Pittsburgh, Richmond, Rochester, Stockton, and Tampa. ANAHEIM, CAL., MUN. CODE §18.38.030 (2011); CLEVELAND, OHIO,

based on lot size and 17 restrict based on zoning. This adds up to 33, rather than 31, because two cities restrict based on both lot size and zoning.<sup>227</sup> These restrictions range from draconian, practically banning chickens in most of the city by restricting chickens to extremely large lots,<sup>228</sup> to extremely liberal, allowing up to 30 chickens per 240 square feet—or 30 chickens in an area approximately the size of a large bedroom.<sup>229</sup> As discussed below, an additional 10 cities should be considered unfriendly to keeping hens because, while they do allow chickens under some circumstances, those circumstances are restricted to very large lots or agriculturally zoned land.<sup>230</sup>

### a. Lot Size Requirements

Of the 15 cities that restrict based on lot size only, six of them restrict chickens to property that is one acre or more: Nashville, Norfolk, Oklahoma City, Philadelphia, Pittsburgh, and Richmond.<sup>231</sup> Nashville, Norfolk, and Pittsburgh appear to limit chickens to property of more than five acres, which in any urban area is a practical ban.

CODIFIED ORDINANCES §347.02 (2011); FORT WAYNE, IND., CODE OF ORDINANCES §157.104 (2011); FREMONT, CAL., MUN. CODE §3-5803 (2011); GARLAND, TEX., CODE OF ORDINANCES §22.14 (2011); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011); NASHVILLE-DAVIDSON, TENN., MUN. CODE §17-16-330 (2011); NORFOLK, VA., CODE OF ORDINANCES §§4-05, 6.1-7 (2011); OKLAHOMA CITY, OKLA., MUN. CODE §59-9350(c) (2011); PHILA., PA., CODE §10-112 (2011); PHOENIX, ARIZ., CITY CODE §8-10 (2011); PITTSBURGH, PA., CODE OF ORDINANCES §§635.02, 911.04.A.2 (2011); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011); ROCHESTER, N.Y., CITY ORDINANCES §§30-12, 30-19 (no date listed); STOCKTON, CAL., MUN. CODE §16.80.060 (2011); TAMPA, FLA., CODE OF ORDINANCES §19.76 (2008). Cities that impose zoning restrictions: Bakersfield, Birmingham, Chesapeake, Dallas, Fresno, Glendale, Arizona, Greensboro, Hialeah, Jacksonville, Los Angeles, Madison, Memphis, Montgomery, San Diego, Shreveport, Stockton, and Virginia Beach. BAKERSFIELD, CAL., MUN. CODE tit. 17 (2011); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007); CHESAPEAKE, VA., CODE OF ORDINANCES ZONING art. 3 (2011); DALLAS, TEX., CODE OF ORDINANCES §7-1.1 (2011); FRESNO, CAL., MUN. CODE ch. 12 (2011); GLENDALE, ARIZ., CODE OF ORDINANCES §§5.132 & 5.212 (2011); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011); HIALEAH, FLA., CODE OF ORDINANCES ch. 98 (2011); JACKSONVILLE, FLA., ORDINANCE CODE ch. 656 (2011); L.A., CAL., MUN. CODE §§12.01, 12.05-12.09 (2011); MADISON, WIS., CODE OF ORDINANCES ch. 28 (no date listed); MEMPHIS, TENN., CODE OF ORDINANCES tit. 16 (2009); MONTGOMERY, ALA., CODE OF ORDINANCES, app. C, art. VII (2011); SAN DIEGO, CAL., MUN. CODE §42.0709 (2011); SHREVEPORT, LA., CODE OF ORDINANCES ch. 106 (2011); STOCKTON, CAL., MUN. CODE §§6.04.420, 16.80.060 (2011); VIRGINIA BEACH, VA., CITY CODE §5-545, app. A (2011).

227. GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011); STOCKTON, CAL., MUN. CODE §§6.04.420 & 16.80.060 (2011).

228. *E.g.*, NASHVILLE-DAVIDSON, TENN., MUN. CODE §§8-12-020, 17-16-330 (2011); PHILA., PA., CODE §10-112 (2011).

229. *See* ROCHESTER, N.Y., CITY ORDINANCES §§30-12, 30-19 (no date listed).

230. BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007); CHESAPEAKE, VA., CODE OF ORDINANCES ch. 10 (2011); HIALEAH, FLA., CODE OF ORDINANCES §§10.1, 10.2 (2011); JACKSONVILLE, FLA., ORDINANCE CODE §656.331(2011); MONTGOMERY, ALA., CODE OF ORDINANCES ch. 4, art. I (2011); *id.* app. C, art. VII; NORFOLK, VA., CODE OF ORDINANCES, app. A, art. II §4-0.5 (2011); OKLAHOMA CITY, OKLA., MUN. CODE §59-9350 (2011); PHILA., PA., CODE §10-112 (2011); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011); VIRGINIA BEACH, VA., CITY CODE §5-545, app. A (2011).

231. NASHVILLE-DAVIDSON, TENN., MUN. CODE §17-16-330(b) (2011); PITTSBURGH, PA., CODE OF ORDINANCES §§635.02, 911.04.A.2 (2011); PHILA., PA., CODE §10-112 (2011); OKLAHOMA CITY, OKLA., MUN. CODE §59-9350 (2011); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011).

Norfolk appears to allow for an exception to the five-acre minimum<sup>232</sup> by allowing a would-be chicken owner to procure a permit to keep hens,<sup>233</sup> but in practice, the city will not issue this permit to chicken hobbyists.<sup>234</sup> But, as discussed below, Nashville and Pittsburgh have interpreted their restrictive ordinances to allow for chickens on much smaller parcels of property.

In Nashville, the zoning code conflicts with the health code, and the health code apparently won out. The zoning ordinance limits “common domestic farm animals” to a lot size of five acres or more, but the ordinance does not define what qualifies as a common domestic farm animal.<sup>235</sup> Nashville’s health code, by contrast, specifically allows for chickens, as long as they do not create a nuisance.<sup>236</sup> Nashville issued a memorandum in 2009 providing that the Board of Zoning Appeals held that the health code takes precedence over the zoning code.<sup>237</sup> In so holding, the Board allowed a property owner to keep her chickens, because their owner considered them to be pets and the chickens did not create a nuisance.<sup>238</sup>

In Pittsburgh, while agricultural uses were limited to property of five acres or more, like Nashville, the code did not specifically define whether raising chickens was considered an agricultural use.<sup>239</sup> Pittsburgh, thus, would allow chicken keepers to seek a variance for raising chickens on property of less than five acres.<sup>240</sup> Apparently, though it is not yet codified, Pittsburgh recently made it much easier to raise chickens, and also bees, by allowing up to three hens and two beehives on property of 2,000 square feet or more.<sup>241</sup>

So, both Nashville and Pittsburgh, while appearing to ban chickens, have become chicken-friendly.

The next most restrictive ordinance is in Philadelphia. Philadelphia restricts chickens to property of three acres or more. Philadelphia, however, apparently means it. In Philadelphia, the code specifically defines poultry as a farm animal,<sup>242</sup> and only allows farm animals on a parcel of property of three acres or more.<sup>243</sup>

232. NORFOLK, VA., CODE OF ORDINANCES, ZONING ORDINANCE, app. A, §4-05 (2011) (“Except as otherwise noted, there shall be no raising or keeping of . . . poultry, fowl, . . . on less than five acres.”).

233. NORFOLK, VA., CODE OF ORDINANCES §6.1-7 (2011) (allowing for a person wishing to raise poultry to procure a permit issued by the department of public health).

234. Amelia Baker, *Backyard Chickens: Now You’re Clucking*, ALT DAILY, June 2, 2010, <http://www.altdaily.com/features/food/backyard-chickens-now-youre-clucking.html> (providing that the city will only issue permits for sentinel chickens that the city has on surveillance to check for mosquito-borne diseases).

235. NASHVILLE-DAVIDSON §17.16.330(b).

236. *Id.* §8.12.020.

237. Memo from John Cooper, Director Metropolitan Council Office, to All Members of Metropolitan Council (Sept. 1, 2009) (on file with author).

238. *Id.*

239. PITTSBURGH §911.04.

240. Diana Nelson Jones, *Ordinance Changes Bother Keepers of Bees and Chickens*, PITTSBURGH POST GAZETTE, Feb. 8, 2010, <http://www.post-gazette.com/pg/10039/1034293-53.stm>.

241. Diana Nelson Jones, *Pittsburgh Urban Coop Tour to Be Held Sunday*, PITTSBURGH POST GAZETTE, June 9, 2011, <http://www.post-gazette.com/pg/11160/1152234-34.stm>.

242. PHILA. §10-100.

243. *Id.* §10-112.



Oklahoma City and Richmond both require at least one acre. Oklahoma City restricts raising chickens to property that is at least one acre, but apparently if the property owner has one acre, there is no restriction on how many chickens can be kept on that acre.<sup>244</sup> Richmond requires 50,000 square feet, or slightly more square footage than the 43,560 square feet in an acre.<sup>245</sup>

After these, the lot sizes are far more lenient. Two cities, Garland and Stockton, require at least ½ acre.<sup>246</sup> Three cities, Fremont, Greensboro, and Phoenix, require between 6,000 and 10,000 square feet, or between a little less than 1/8 to a little less than 1/4 acre.<sup>247</sup> And four cities, Anaheim, Cleveland, Rochester, and Tampa, require between 240 to 1,800 square feet, or from not much larger than a shed to about the size of a modern master bedroom.<sup>248</sup> So, out of the 15 cities that restrict based on lot size, the majority of them allow most residents to raise backyard chickens.

### b. Zoning Requirements

Seventeen cities restrict chickens to certain zones. Of these, three of the cities restrict chickens only to land zoned for agricultural use: Birmingham, Hialeah, and Virginia Beach.<sup>249</sup> Three more cities restrict chickens to agricultural or very low-density residential zones: Chesapeake, Jacksonville, and Montgomery.<sup>250</sup> Thus, six of the 17 cities confine chickens to so few zones that it excludes the possibility of raising chickens for most families.

The remaining eleven cities, however, while still restricting chickens to certain zones, allow chickens in many or most residential zones.<sup>251</sup> Dallas only applies zoning

requirements if chickens are being raised for commercial purposes.<sup>252</sup> Memphis merely applies different building restrictions for coops depending on the zone.<sup>253</sup> And two cities employ zoning laws to augment the area where chickens are allowed: Cleveland and Stockton specifically allow raising chickens in industrially zoned areas.<sup>254</sup>

### c. Multi-Family Units

Two cities, Minneapolis and Newark, specifically regulate multi-family dwellings such as apartments. Both of these cities require permits, but will not grant one to certain multi-family dwellings. Minneapolis will not grant a permit to someone who lives in a multi-family home with four or more dwelling units.<sup>255</sup> Newark will not grant one to anyone living in any multi-family home.<sup>256</sup>

### d. Using Lot Size to Determine the Number of Chickens

Many other cities do not restrict chickens to certain lot sizes, but use lot size to determine how many chickens a property can have. There is no uniformity to these ordinances. Some ordinances set a maximum number of chickens for property of a certain size and under, and then allow for more chickens as the property size increases. For instance, Seattle allows up to eight chickens for lots under 10,000 square, and one more chicken for each additional 1,000 square feet.<sup>257</sup> Fremont has an intricate step system, with four chickens for at least 6,000 square feet, six for at least 8,000 square feet, 10 for at least 10,000, 20 for at least ½ acre, and 25 for more than one acre.<sup>258</sup> Riverside allows for up to four chickens on property between 7,200 and 40,000 square feet and up to 12 on property 40,000 square feet or more in residentially zoned areas.<sup>259</sup>

Some cities decide the number of chickens based on zoning. El Paso allows for up to six chickens on land not zoned agricultural.<sup>260</sup> Tulsa allows up to six adults and 14 chicks under eight weeks of age on land not zoned agricul-

244. OKLAHOMA CITY §59-8150 (definitions); *id.* §59-9350 (confining to one acre).

245. RICHMOND, VA., CODE OF ORDINANCES §10-88(b) (2011).

246. GARLAND, TEX., CODE OF ORDINANCES §22.14 (2011); STOCKTON, CAL., MUN. CODE §16.80.060 (2011).

247. FREMONT, CAL., MUN. CODE §3-5803 (2011) (6,000 sq. ft.); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011) (7,000 sq. ft.); PHOENIX, ARIZ., CITY CODE §8-7(b) (2011) (10,000 sq. ft.).

248. ANAHEIM, CAL., MUN. CODE §18.38.030 (2011) (1,800 sq. ft.); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02 (2011) (800 sq. ft. for residential, and 400 for commercial); ROCHESTER, N.Y., CITY ORDINANCES §30-12, 30-19 (no date listed) (240 sq. ft.); TAMPA, FLA., CODE OF ORDINANCES §19.76 (2008) (1,000 sq. ft.).

249. BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007); HIALEAH, FLA., CODE OF ORDINANCES §10.1 & 10.2 (2011); VIRGINIA BEACH, VA., CITY CODE §5-545 app. A (2011).

250. CHESAPEAKE, VA., CODE OF ORDINANCES ch. 10 (2011); *id.* ZONING art. 3; JACKSONVILLE, FLA., ORDINANCE CODE tit. XIII, ch. 462, tit. XVII, ch. 656 (2011); MONTGOMERY, ALA., CODE OF ORDINANCES app. C, art. VII (2011).

251. BAKERSFIELD, CAL., MUN. CODE §17.12.010-RS & 17.32.020 (2011) (permitting chickens in agriculture and residential suburban areas); DALLAS, TEX., CODE OF ORDINANCES §7-1.1 (2011) (requiring chickens that are raised for commercial purposes to be on agriculturally zoned land, otherwise chickens are regulated as pets); FRESNO, CAL., MUN. CODE §12-204.11-12-207.5 (2011) (providing different setbacks depending on zone); GLENDALE, ARIZ., CODE OF ORDINANCES §§5.132 & 5.212 (2011) (restricting poultry to rural residential and suburban residential zones); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011) (allowing chickens as an accessory on single-family detached dwellings on R-3, E-5, R-7, RM-9, RM-12, and RM-18 districts); L.A., CAL., MUN. CODE §12.01, 12.05-12.09 (2011) (allowing chickens in agricultural and

residential districts including districts zoned A1, A2, RA, RE, RS R1, and RMP); MADISON, WIS., CODE OF ORDINANCES ch. 28 (no date listed); *id.* §7.29; *id.* §9.52 (allowing chickens in both residential and commercial districts); MEMPHIS, TENN., CODE OF ORDINANCES tit. 16, app. A (2009) (applying complex zoning requirements for outbuildings to chicken coops); SAN DIEGO, CAL., MUN. CODE §42.0709 (2011) (using zoning to define different kinds of setbacks, but allowing chickens in most zones); SHREVEPORT, LA., CODE OF ORDINANCES ch. 106 (2011) (allowing poultry raising in residential and agricultural districts by right, and in most other zones through a special exception from the zoning board); STOCKTON, CAL., MUN. CODE §6.04.420, 16.80.060 (2011) (allowing chickens in residential and industrially zoned areas).

252. DALLAS, TEX., CODE OF ORDINANCES §7-1.1 (2011).

253. MEMPHIS, TENN., CODE OF ORDINANCES tit. 16 (2010).

254. CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02 (2011); STOCKTON, CAL., MUN. CODE §16.80.060 (2011).

255. MINNEAPOLIS, MINN., CODE OF ORDINANCES §70.10(c) (2011).

256. NEWARK, N.J., GENERAL ORDINANCES §6:2-33 (2010).

257. SEATTLE, WASH., MUN. CODE §23.42.052(C) (2011).

258. FREMONT, CAL., MUN. CODE §3-5803 (2011).

259. RIVERSIDE, CAL., CODE OF ORDINANCES §17.24 (2011).

260. EL PASO, TEX., MUN. CODE §7.24.020(B) (2011).

tural.<sup>261</sup> Neither city restricts the amount of chickens on agriculturally zoned land.<sup>262</sup>

Instead of using square footage or zoning, many cities divide by acre. These ordinances range between four to 12 chickens for property under ½ acre. For instance, Fort Worth allows for no more than 12 chickens on lots under ½ acre, no more than 20 on lots between ½ and one acre, and no more than 50 on lots of one acre or more.<sup>263</sup> Mesa City allows for 10 rodents or fowl on ½ acre or less, and an additional 10 for each ½ acre, but no longer limits the number of chickens after 2 ½ acres.<sup>264</sup> Louisville allows for five chickens on property of less than ½ acre, and no limit above that.<sup>265</sup> Arlington provides for four on less than ½ acre, 10 for lots between ½ and one acre, and 25 for lots over one acre.<sup>266</sup> And, Charlotte requires a permit and restricts chickens to 20 per acre.<sup>267</sup>

Des Moines' ordinance employs a similar step system but provides for a mix of other livestock. It allows for no more than 30 of any two species for property less than one acre. For property greater than one acre, one can have a total of 50 animals divided among up to six species.<sup>268</sup>

Lincoln, Nebraska, has one of the more unique chicken ordinances when it comes to limiting the number, in that it not only provides for a maximum number of chickens, but also a minimum. It also specifies the weight of the chickens. So, for property under one acre, with a permit, a person can have seven to 30 chickens under three pounds, three to 20 chickens between three and five pounds, and two to five chickens between five and 20 pounds.<sup>269</sup> It allows chicken owners to double the number for each additional acre. Lincoln's ordinance should be applauded for recognizing that chickens are flock animals and thus require, at least, a minimum of two. It should also be applauded for not penalizing an owner for keeping less than two and only making it unlawful to keep numbers greater than the maximum.<sup>270</sup> After all, if it penalized keeping less than a minimum number of chickens, Lincoln might be unique among cities for making it unlawful not to keep chickens.

More problematic are cities that do not allow owners to own a minimum number of four chickens. Several cities allow one chicken per a certain square footage area. Greensboro provides for one chicken for every 3,000 square feet, as long as the area is greater than 7,000 square feet.<sup>271</sup> Anaheim allows one chicken for each 1,800 square feet, but it does provide that if the calculation results in more than half an animal, the owner can round up to the next whole

animal.<sup>272</sup> Tampa provides five per 5,000 square feet. And, Cleveland allows for one chicken for each 800 square feet if residential and each 400 square feet if commercial or industrial.<sup>273</sup> Cleveland, at least, has stated in its ordinance that these square feet requirements are meant to allow six chickens on an average-sized Cleveland lot. While many of these cities provide a small enough chicken to square foot ratio that the average single-family home should be able to accommodate four or more chickens, this method still leaves open the possibility that a chicken owner would be restricted to one or two chickens. An ordinance that allows only one chicken per a certain area does not take into account that chickens are flock animals that do not thrive when left alone.

### 3. Limit Number of Chickens

Many other cities limit the number of chickens any household can keep, no matter the size of the property. Thirty cities place a simple limit on the number of chickens.<sup>274</sup> Of those cities that simply limit the number of chickens, the average number they allow is 12, the median number is nine, and the most popular number is a tie between four and 25.<sup>275</sup> The lowest number is Garland and Honolulu with two.<sup>276</sup> Somewhat surprisingly, the highest number comes from Jersey City—with 50.<sup>277</sup> Jersey City collapses ducks and pigeons within the restriction of 50 fowl.<sup>278</sup> Jersey City also requires a permit to keep chickens.<sup>279</sup>

At least four cities set a maximum number of chickens that can be owned before it is necessary to procure a per-

261. TULSA, OKLA., CODE OF ORDINANCES §200(E) (2011).

262. EL PASO, TEX., MUN. CODE §7.24.020(B); TULSA, OKLA., CODE OF ORDINANCES §200(A).

263. FORT WORTH, TEX., CODE OF ORDINANCES §11A-22(c), (d), (e) (2011).

264. MESA, ARIZ., CITY CODE §8-6-21(A) (2011).

265. LOUISVILLE/JEFFERSON COUNTY METRO CODE §91.011 RESTRAINT (8) (2011).

266. ARLINGTON, TEX., ORDINANCES GOVERNING ANIMALS §5.02 (2010).

267. CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c)(1), (g) (2010).

268. DES MOINES, IOWA, CODE OF ORDINANCES §18-4 (2011). Des Moines also allows up to two fowl to be kept as pets. *Id.* §18-136.

269. LINCOLN, NEB., MUN. CODE tbl. 6.04.040 (2011).

270. *Id.* §6.04.040(b)(1).

271. GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3(B) (2011).

272. ANAHEIM, CAL., MUN. CODE §18.38.030.050 (2011).

273. CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(2) (2011).

274. From lowest to highest: HONOLULU, HAW., REV. ORDINANCES §7-2.5(d) (1990) (two); GARLAND, TEX., CODE OF ORDINANCES §22.14 (2011) (two); PORTLAND, OR., CITY CODE §13.05.015(b) & (e) (2011) (three); SACRAMENTO, CAL., CITY CODE §9.44.860(A)(1) (2011) (three); WICHITA, KAN., CODE OF ORDINANCES §6.04.157 (2011) (three); SAN FRANCISCO, CAL., HEALTH CODE §37 (2011) (four); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5(3) (2011) (four); ST. LOUIS, MO., CODE OF ORDINANCES §10.20.015 (2010) (four); SANTA ANA, CAL., CODE OF ORDINANCES §5.6 (2011) (four); MADISON, WIS., CODE OF ORDINANCES ch. 28 (no date listed); *id.* §7.29; *id.* §9.52 (four); BUFFALO, N.Y., CITY CODE §341-11 (2009) (five); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.815 (2007) (six); EL PASO, TEX., MUN. CODE §7.24.020 (2011) (six); CORPUS CHRISTI, TEX., CODE OF ORDINANCES §6-154 (2011) (six); HOUSTON, TEX., CODE OF ORDINANCES ch. 6, art. II (2010) (seven); AUSTIN, TEX., CODE OF ORDINANCES tit. III, ch. 3.1.1 (2011) (nine); COLORADO SPRINGS, COLO., CITY CODE §6.7.106(D) (2011) (10); PLANO, TEX., CODE OF ORDINANCES §4-184 (2011) (10); GLENDALE, CAL., MUN. CODE §6.04.130 (2011) (12); ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-4-3 (2011) (15); KANSAS CITY, MO., CODE OF ORDINANCES §14-15(f) (2011) (15); MIAMI, FLA., CODE OF ORDINANCES §6-1(b) (2011) (15); LONG BEACH, CAL., MUN. CODE §6.20.020 (2011) (20); TUCSON, ARIZ., CODE OF ORDINANCES §4-56 (2011) (24); FREMONT, CAL., MUN. CODE §3-5803 (2011) (25); SAN DIEGO, CAL., MUN. CODE §42.0708 (2011) (25); BOS., MASS., CODE OF ORDINANCES §16-1.8A (2010) (25); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007) (25); MOBILE, ALA., CODE OF ORDINANCES §7-103 (2011) (25); JERSEY CITY, N.J., CODE OF ORDINANCES §90-6 (2011) (50).

275. *Supra* note 274 and accompanying text.

276. GARLAND, TEX., CODE OF ORDINANCES §22.14 (2011) (two); HONOLULU, HAW., REV. ORDINANCES §7-2.5(d) (1990) (two).

277. JERSEY CITY, N.J., CODE OF ORDINANCES §90-6 (2011).

278. *Id.*

279. *Id.*



mit.<sup>280</sup> Wichita allows three chickens, Santa Ana allows four, and San Jose and El Paso both allow up to six.<sup>281</sup> This appears to be the most workable system, because it takes into account that there are different levels of chicken-keeping in an urban agriculture context. It provides a bright-line rule for people who want small backyard flocks, while still allowing owners of market gardens, urban farms, or chicken cooperatives the opportunity to expand their operations without seeking to change the ordinance. It also conserves city resources by not forcing every would-be chicken owner to procure a permit. Finally, because there is no permit, it saves the city from any obligations to monitor the backyard operation. If any problem arises with a small backyard flock, the city can rely on its nuisance laws, or other setback or coop requirements within the statute to resolve the problem.

Some cities always require a permit, but set a relatively high number of chickens allowed. As noted earlier, with a permit, Jersey City allows up to 50,<sup>282</sup> and Boston and Mobile allow up to 25.<sup>283</sup> According to several Bostonians who want chickens, however, Boston does not easily grant this permit.<sup>284</sup> Miami allows up to 15 hens with a permit.<sup>285</sup>

Some cities take a belt-and-suspenders approach and require both a permit and restrict hens to a small number. With a permit, Milwaukee only allows four,<sup>286</sup> and Sacramento, three.<sup>287</sup>

Several other cities, perhaps understanding that the hens may occasionally be used to produce more chickens, allow considerably more chicks than full-grown chickens. Both Miami and Kansas City allow only 15 grown hens, but Miami allows 30 chicks,<sup>288</sup> and Kansas City allows 50.<sup>289</sup> Tulsa allows seven adults and 14 chicks.<sup>290</sup> Colorado Springs allows 10 hens and an unlimited number of chicks.<sup>291</sup> And Garland, even though it allows only two hens, does not limit the number of chicks less than one-month old.<sup>292</sup>

And for pure eccentricity, Houston has the most interesting restriction on the number of chickens. Houston allows up to seven hens if a person can present a written certification from a licensed physician that the person needs “fresh unfertilized chicken eggs for serious reasons

pertaining to said person's health.”<sup>293</sup> This ordinance was passed in 2010,<sup>294</sup> presumably because Houstonites were able to show that fresh eggs help alleviate certain medical ailments.

#### 4. Setbacks

Setbacks are, by far, the most popular way to regulate chickens. Sixty-three cities have some sort of setback requirement in their ordinances. The most popular setback is a setback from a neighboring dwelling: 56 cities require that chickens and chicken coops be kept a certain distance from other residences.<sup>295</sup> The next most popular is a setback

293. HOUSTON, TEX., CODE OF ORDINANCES §6-38 (2010).

294. *Id.*

295. AKRON, OHIO, CODE OF ORDINANCES §92-18 (2011) (100 ft.); ANAHEIM, CAL., MUN. CODE §18.38.030.0202 (2011) (50 ft.); ANCHORAGE, ALASKA, CODE OF ORDINANCES §§21.40.060 & 21.40.080 (2011) (25-100 ft.); ARLINGTON, TEX., ORDINANCES GOVERNING ANIMALS §5.02 (2010) (50 ft.); ATLANTA, GA., CODE OF ORDINANCES §18-7 (2011) (50 ft.); AUSTIN, TEX., CODE OF ORDINANCES §3.2.16 (2011) (50 ft.); BAKERSFIELD, CAL., MUN. CODE §17.12.010 R-S (2011) (50 ft.); BATON ROUGE, LA., CODE OF ORDINANCES §14-224 (c)(1)(b) (2011) (50 ft.); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007) (300 ft. from residence or 100 ft. from any residential structure); BOS., MASS., CODE OF ORDINANCES §16-1.8A, ZONING, art. 8, No. 75 (2010) (100 ft.); BUFFALO, N.Y., CITY CODE §341-11.3 (2009) (20 ft. from door or window); CORPUS CHRISTI, TEX., CODE OF ORDINANCES §6-154 (2011) (100 ft. if not enclosed); DES MOINES, IOWA, CODE OF ORDINANCES §18-4 (2011) (25 ft.); EL PASO, TEX., MUN. CODE §7.24.030 (2011) (30 ft.); FORT WORTH, TEX., CODE OF ORDINANCES §11A-22(b) & (f) (2011) (50 ft.); FRESNO, CAL., MUN. CODE §12.207.5 (2011) (40 ft.); GARLAND, TEX., CODE OF ORDINANCES §22.14 (2011) (30 ft.); GLENDALE, CAL., MUN. CODE §6.04.030 (2011) (50 ft. from dwelling or 100 ft. from school or hospital); GLENDALE, ARIZ., CODE OF ORDINANCES pt. II, art. 5 (2010) (100 ft.); GRAND RAPIDS, MICH., CODE OF ORDINANCES §8.582 (2010) (100 ft. from any dwelling unit, well, spring, stream, drainage ditch, or drain); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3(B) (2011) (50 ft.); HIALEAH, FLA., CODE OF ORDINANCES §10.4 (2011) (100 ft.); HONOLULU, HAW., REV. ORDINANCES §7-2.5(d) (1990) (300 ft.); HOUSTON, TEX., CODE OF ORDINANCES §6-31 (2010) (100 ft.); JERSEY CITY, N.J., CODE OF ORDINANCES §90-6 (2011) (25 ft.); KANSAS CITY, MO., CODE OF ORDINANCES §14-15 (2011) (100 ft.); LINCOLN, NEB., MUN. CODE §6.04.040 (2011) (50 ft.); LONG BEACH, CAL., MUN. CODE §6.20.030 (2011) (50 ft.); L.A., CAL., MUN. CODE §§53.58 & 53.59 (2011) (Department of Animal Services promulgated regulations that require chicken coops to be 35 ft. from neighbor's dwelling and 20 ft. from owner's dwelling); MADISON, WIS., CODE OF ORDINANCES ch. 28 (no date listed) (25 ft.); MESA, ARIZ., CITY CODE §8-6-21(g) & (h) (2011) (40 ft.); MIAMI, FLA., CODE OF ORDINANCES §6-1(b) (2011) (100 ft.); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5(3)(g)-(j) (2011) (25 ft.); MOBILE, ALA., CODE OF ORDINANCES §§7-88 & 7-103 (2011) (150 ft. if not grandfathered in); NASHVILLE-DAVIDSON, TENN., MUN. CODE §17-16-330(B) (2011) (250 ft.); N.Y.C., MUN. CODE §161.09 (1990) (25 ft.); NEWARK, N.J., GENERAL ORDINANCES §6:2-35 (2010) (20 ft.); OAKLAND, CAL., CODE OF ORDINANCES §6-04-320 (2011) (50 ft.); OKLAHOMA CITY, OKLA., MUN. CODE 59-9350 (2011) (200 ft.); PHOENIX, ARIZ., CITY CODE §8-7 (2011) (80 ft.); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011) (500 ft.); RIVERSIDE, CAL., CODE OF ORDINANCES §6.04.20 (2011); *id.* tit. 17 (50 ft.); ROCHESTER, N.Y., CITY ORDINANCES §30-19(H) (no date listed) (25 ft.); SACRAMENTO, CAL., CITY CODE §9.44.860 (2011) (100 ft. or 50 ft. with permit); SAN DIEGO, CAL., MUN. CODE §42.0709 (2011) (50 ft.); SAN FRANCISCO, CAL., HEALTH CODE §37(b) (2011) (20 ft. from door or window); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.815 (2007) (20 ft. but more if have more chickens); SANTA ANA, CAL., CODE OF ORDINANCES §5-18 (2011) (100 ft.); SEATTLE, WASH., MUN. CODE §23.42.052(c)(3) (2011) (10 ft.); ST. PETERSBURG, FLA., CODE OF ORDINANCES §4-31 (2011) (100 ft. unless have permission from neighbors); STOCKTON, CAL., MUN. CODE §§6.04.420, 16.80.060 (2011) (50 ft.); TACOMA, WASH., MUN. CODE §5.30.010 (2011) (50 ft. unless have permission from neighbors); TAMPA, FLA., CODE OF ORDINANCES §19.76 (2008) (200 ft.); TUCSON, ARIZ., CODE

280. WICHITA, KAN., CODE OF ORDINANCES §6.04.157(a) (2011); SANTA ANA, CAL., CODE OF ORDINANCES §5.6 (2011); SAN JOSE, CAL., CODE OF ORDINANCES tit. 7 (2007); EL PASO, TEX., MUN. CODE §7.24.020 (2011).

281. *See supra* note 280.

282. JERSEY CITY, N.J., CODE OF ORDINANCES §90-7 (2011).

283. BOS., MASS., CODE OF ORDINANCES §16-1.8A, ZONING art. 8 No. 75 (2010); MOBILE, ALA., CODE OF ORDINANCES §7-103 (2011).

284. *See, e.g.*, LEGALIZE CHICKENS IN BOSTON, <http://legalizechickensinboston.org/> (last visited July 5, 2012) (stating that the city of Boston denies chicken permits and seeking a more reasonable legislative solution to regulate chickens in Boston).

285. MIAMI, FLA., CODE OF ORDINANCES §6-1(b) (2011).

286. MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5 (2011).

287. SACRAMENTO, CAL., CITY CODE §9.44.860(a)(1) (2011).

288. MIAMI, FLA., CODE OF ORDINANCES §6-1(b) (2011).

289. KANSAS CITY, MO., CODE OF ORDINANCES §14-15(f) (2011).

290. TULSA, OKLA., CODE OF ORDINANCES §200(d), (e) (2011).

291. COLORADO SPRINGS, COLO., CITY CODE §6.7.106(D) (2011).

292. GARLAND, TEX., CODE OF ORDINANCES §22.14 (2011).

from the property line: 20 cities require chickens to be kept away from the neighbor's property, even if the neighbor's actual house is much further away.<sup>296</sup> Three cities require a setback from the street.<sup>297</sup> Six cities ban chickens from the front yard.<sup>298</sup> This adds up to more than 63, because several cities employ more than one kind of setback. Finally, several cities have unique setback requirements that will be discussed later.

### a. Setbacks From Neighboring Buildings

Of the 56 cities that require that chickens be kept a certain distance away from neighboring residences,<sup>299</sup> the setbacks range from 10<sup>300</sup> to 500 feet.<sup>301</sup> The average of all of the setbacks is 80 feet,<sup>302</sup> although only one city, Phoenix, actually has a setback of 80 feet.<sup>303</sup> The median and the mode are both 50 feet.<sup>304</sup> The average is higher than both the median and the mode, because several cities that also require large lots, or agriculturally zoned land, also have very large setbacks.<sup>305</sup> The mode, the most common set-

back, comprises 17 cities.<sup>306</sup> After that, the most popular setbacks are the following:

- Fifteen cities have setbacks of less than 30 feet, with two at 30 feet,<sup>307</sup> seven at 25 feet,<sup>308</sup> six at 20 feet,<sup>309</sup> and one at 10 feet.<sup>310</sup>
- Thirteen cities have setbacks of 100 feet.<sup>311</sup> Of those, three of them allow for smaller setback under certain conditions: St. Petersburg will allow for a smaller setback if the owner seeks permission from neighboring property owners; San Antonio will allow for a smaller setback with a permit; and Corpus Christi will allow for a smaller setback if the coop is enclosed.<sup>312</sup>
- Seven cities have setbacks of more than 100 feet.<sup>313</sup> Of those, Mobile, Alabama, has a 150-foot setback, but allows chicken coops that were built before the ordinance passed to be grandfathered in.<sup>314</sup> Oklahoma City has a 200-foot setback and, puzzlingly, will waive these setbacks from horses, mules, donkeys, and pigs, but not for chickens.<sup>315</sup> Oklahoma City also has an additional 400-foot setback for roosters.<sup>316</sup>

Several cities will shrink their setbacks under certain conditions. In what appears to be a thoughtful approach to requiring a neighbor's consent, four cities provide a standard setback, but provide relief from the setback if the owner gets permission from his neighbors to keep chickens.<sup>317</sup> And one city, San Antonio, as mentioned

OF ORDINANCES §4-57 (2011) (50 ft.); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.7(a) & (b) (no date listed) (50 ft.).

296. ANAHEIM, CAL., MUN. CODE §18.38.030.0202 (2011) (20 ft. from property line); BATON ROUGE, LA., CODE OF ORDINANCES §14-224(c)(1)(b) (2011) (10 ft. from property line); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007) (100 ft. from property line); BUFFALO, N.Y., CITY CODE §341-11.3 (2009) (18 inches from rear lot); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c) (2010) (25 ft. from property line); CHESAPEAKE, VA., CODE OF ORDINANCES ch. 10 (2011) (20 ft. from property line); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(B) (2011) (5 ft. from side yard and 18 inches from rear yard); FRESNO, CAL., MUN. CODE §12-206.1 (2011) (100 ft. from property line); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011) (25 ft. from property line); JACKSONVILLE, FLA., ORDINANCE CODE §656.401 (2011) (50 ft. from property line); KANSAS CITY, MO., CODE OF ORDINANCES §14-15(f) (2011) (25 ft. from property line); MONTGOMERY, ALA., CODE OF ORDINANCES ch. 4 art. I (2011); *id.* app. C, art. VII (200 ft. from property line); PLANO, TEX., CODE OF ORDINANCES §3-204 (2011) (5 ft. from property line); PORTLAND, OR., CITY CODE §13.05.015(b) & (e) (2011) (50 ft. from residence or business where food is prepared); RIVERSIDE, CAL., CODE OF ORDINANCES §6.04.20 (2011) (20 ft. from property line); SEATTLE, WASH., MUN. CODE §23.42.052(c)(3) (2011) (10 ft. from property line); TAMPA, FLA., CODE OF ORDINANCES §19.76 (2008) (200 ft. from property line); TULSA, OKLA., CODE OF ORDINANCES §200(d) & (e) (2011) (50 ft., but 100 ft. if zoned agricultural); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.7(a) & (b) (no date listed) (250 ft. unless have neighbor's consent).

297. BAKERSFIELD, CAL., MUN. CODE §17.12.010-RS (2011) (100 ft.); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007) (300 ft.); BOS., MASS., CODE OF ORDINANCES §16-1.8A, ZONING, art. 8, No. 75 (2010) (100 ft.).

298. BUFFALO, N.Y., CITY CODE §341-11.3 (2009); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(B) (2011); DES MOINES, IOWA, CODE OF ORDINANCES §18-4 (2011); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5(3)(g)-(j) (2011); PHOENIX, ARIZ., CITY CODE §8-7 (2011); SACRAMENTO, CAL., CITY CODE §9.44.860 (2011).

299. *See supra* note 295.

300. SEATTLE, WASH., MUN. CODE §23.42.052(c)(3) (2011).

301. RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011). Since Richmond also requires an acre of land to even own chickens, this setback doesn't exclude any additional would-be chicken owners.

302. *See supra* note 295.

303. PHOENIX, ARIZ., CITY CODE §8-10 (2011) (80 ft. unless have permission from neighbor).

304. *See supra* note 295.

305. BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007) (300 ft.); HONOLULU, HAW., REV. ORDINANCES §7-2.5(d) (1990) (300 ft.); and RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011) (500 ft.).

306. Anaheim; Arlington; Austin; Bakersfield; Baton Rouge; Fort Worth; Glendale, California; Greensboro; Lincoln; Long Beach (but 20 if just had one chicken); Portland; Riverside; San Diego; Stockton; Tacoma; Tucson; Washington.

307. EL PASO, TEX., MUN. CODE §7.24.030 (2011) (30 ft., but only 20 ft. if separated by a fence that is at least six ft.); GARLAND, TEX., CODE OF ORDINANCES §22.14(A) (2011).

308. ANCHORAGE, ALASKA, CODE OF ORDINANCES §§21.40.060 & 21.40.080 (2011); DES MOINES, IOWA, CODE OF ORDINANCES §18-4(h)(1) (2011); JERSEY CITY, N.J., CODE OF ORDINANCES §90-6 (2011); MADISON, WIS., CODE OF ORDINANCES ch. 28 (no date listed); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5 (2011); N.Y.C., MUN. CODE §161.09 (1990) (for poultry market coops only—poultry not intended for sale is not regulated); ROCHESTER, N.Y., CITY ORDINANCES §30-19(H) (no date listed).

309. BUFFALO, N.Y., CITY CODE §341-11.3 (2009); NEWARK, N.J., GENERAL ORDINANCES §6:2-35 (2010); OAKLAND, CAL., CODE OF ORDINANCES §6-04-320 (2011); SACRAMENTO, CAL., CITY CODE §9.44.860 (2011); SAN FRANCISCO, CAL., HEALTH CODE §37 (2011); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.815 (2007) (applying setback to all small animals, not just chickens).

310. SEATTLE, WASH., MUN. CODE §23.42.052(C) (2011).

311. Akron, Atlanta, Boston, Corpus Christi, Glendale, Grand Rapids, Hialeah, Houston, Kansas City, Miami, San Antonio, Santa Ana, St. Petersburg.

312. ST. PETERSBURG, FLA., CODE OF ORDINANCES §4-31 (2011) (100 ft. unless have permission from neighbors); SAN ANTONIO, TEX., CODE OF ORDINANCES §5-109(c) (2011) (100 ft. with permit); CORPUS CHRISTI, TEX., CODE OF ORDINANCES §6-154 (2011) (100 ft. if not enclosed).

313. Mobile, Oklahoma, Tampa, Nashville, Birmingham, Honolulu, Richmond.

314. MOBILE, ALA., CODE OF ORDINANCES §7-88(d) (2011) (150 ft. if not grandfathered in), *but see id.* §7-103(d) (allowing for 20 ft. from the property line in a residential area).

315. OKLAHOMA CITY, OKLA., MUN. CODE §59-9350(F) & (I) (2011).

316. *Id.* §59-9350(H).

317. LAS VEGAS, NEV., MUN. CODE §7.38.050 (2011) (300 ft. without permission); PHOENIX, ARIZ., CITY CODE §8-10 (2011) (80 ft. without permission); ST. PETERSBURG, FLA., CODE OF ORDINANCES §4-31(d) (2011) (100 ft. without permission); TACOMA, WASH., MUN. CODE §§5.30.010 & 5.30.030 (2011) (50 ft. without permission).

above, will shrink its 100-foot setback to 50 feet if a permit is secured.<sup>318</sup>

Two cities do not frame the setback as from a neighboring residence or building, but more specifically to a door or a window of the building. Both Buffalo and San Francisco have a 20-foot setback from any door or window of a building.<sup>319</sup>

Several cities define the setback more broadly than a neighboring dwelling, and include schools, hospitals, and other businesses within the setback.<sup>320</sup> Grand Rapids, Michigan, however, goes further; it has a 100-foot setback from any “dwelling unit, well, spring, stream, drainage ditch or drain.”<sup>321</sup> This, in effect, bans all chickens within the city.

## b. Setbacks From Property Line

Twenty cities mandate setbacks from the property line;<sup>322</sup> those setbacks range from 18 inches<sup>323</sup> to 250 feet.<sup>324</sup> The average setback is 59 feet, but no city actually has such a setback. The closest are Jacksonville and Tulsa, which both have a setback of 50 feet.<sup>325</sup> Again, a few cities with very large setbacks are raising the average.<sup>326</sup> The median set-

back is 25 feet.<sup>327</sup> And the mode, or most popular, setback is tied at either 20<sup>328</sup> or 25 feet.<sup>329</sup>

Washington, D.C., which has the largest setback at 250 feet, allows relief from this setback if the owner has his neighbor's consent to keep chickens.<sup>330</sup>

## c. Setbacks From the Street

Three cities require chickens to be kept away from the street: Bakersfield, Birmingham, and Boston.<sup>331</sup> All of these setbacks are relatively large, ranging from 100 to 300 feet. Presumably, this is to stop chickens from being kept in the front yard or on a corner lot from a vantage point where passersby can easily see the coop. Bakersfield, provides a specific setback for corner lots, requiring that chicken coops be kept at least 10 feet away from the street side of a corner lot.<sup>332</sup> Another way that cities do this, perhaps more effectively, is by simply barring chickens from front yards, as six cities do.<sup>333</sup>

## d. Other Kinds of Setbacks

While many ordinances exclude the owner's house from the definition of a dwelling,<sup>334</sup> two cities provide a separate setback requirement for an owner's own dwelling. Atlanta requires chickens to be kept at least five feet away from an owner's own house,<sup>335</sup> and Los Angeles requires that the chickens be kept at least 20 feet away from the owner's house.<sup>336</sup>

Three cities do not provide for explicit setbacks, but leave each setback up to some city official's discretion. In Wichita, the chief of police can examine the property and determine the setback.<sup>337</sup> In St. Paul, it is up to the Health Inspector's discretion.<sup>338</sup> And, in Fremont, it is the Animal Services Supervisor who has discretion.<sup>339</sup>

318. SAN ANTONIO, TEX., CODE OF ORDINANCES §5-109 (2011).

319. BUFFALO, N.Y., CITY CODE §341-11 (2009); SAN FRANCISCO, CAL., HEALTH CODE §37 (2011).

320. *E.g.*, FORT WORTH, TEX., CODE OF ORDINANCES §11A-22 (2011); GLENDALE, CAL., MUN. CODE §6.04.130 (2011).

321. GRAND RAPIDS, MICH., CODE OF ORDINANCES §8.582(2) (2010).

322. ANAHEIM, CAL., MUN. CODE §18.38.030.0202 (2011) (20 ft. from property line); BATON ROUGE, LA., CODE OF ORDINANCES §14-224(c)(1)(b) (2011) (10 ft. from property line); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007) (100 ft. from property line); BUFFALO, N.Y., CITY CODE §341-11.3 (2009) (18 inches from rear lot); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c) (2010) (25 ft. from property line); CHESAPEAKE, VA., CODE OF ORDINANCES ch. 10 (2011) (20 ft. from property line); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(B) (2011) (5 ft. from side yard and 18 inches from rear yard); FRESNO, CAL., MUN. CODE §12-206.1 (2011) (100 ft. from property line); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011) (25 ft. from property line); JACKSONVILLE, FLA., ORDINANCE CODE §656.401 (2011) (50 ft. from property line); KANSAS CITY, MO., CODE OF ORDINANCES §14-15(f) (2011) (25 ft. from property line); MONTGOMERY, ALA., CODE OF ORDINANCES ch. 4 art. I (2011); *id.* at app. C, art. VII (200 ft. from property line); PLANO, TEX., CODE OF ORDINANCES §3-204 (2011) (5 ft. from property line); PORTLAND, OR., CITY CODE §13.05.015(b) & (c) (2011) (50 ft. from residence or business where food is prepared); RIVERSIDE, CAL., CODE OF ORDINANCES §6.04.20 (2011) (20 ft. from property line); SEATTLE, WASH., MUN. CODE §23.42.052(c)(3) (2011) (10 ft. from property line); TAMPA, FLA., CODE OF ORDINANCES §19.76 (2008) (200 ft. from property line); TULSA, OKLA., CODE OF ORDINANCES §200(d) & (e) (2011) (50 ft., but 100 ft. if zoned agricultural); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.7(a) & (b) (no date listed) (250 ft. unless have neighbor's consent).

323. CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02 (2011); BUFFALO, N.Y., CITY CODE §341-11.3 (2009).

324. WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.7 (no date listed) (250 ft. setback without consent of neighbors).

325. JACKSONVILLE, FLA., ORDINANCE CODE §656.401 (2011) (50 ft. from property line); TULSA, OKLA., CODE OF ORDINANCES §200(d), (e) (2011).

326. TULSA, OKLA., CODE OF ORDINANCES §200(d), (e) (2011) (200 ft.); TAMPA, FLA., CODE OF ORDINANCES §19.76 (2008) (200 ft.); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.7(a) & (b) (no date listed) (250 ft.).

327. CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c)(1), (f) (2010); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3 (2011); KANSAS CITY, MO., CODE OF ORDINANCES §14-15 (2011).

328. ANAHEIM, CAL., MUN. CODE §18.38.030.0202 (2011); CHESAPEAKE, VA., CODE OF ORDINANCES ch. 10 (2011); RIVERSIDE, CAL., CODE OF ORDINANCES §6.04.20 & tit. 17(2011).

329. *See supra* note 327.

330. WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.7(b) (no date listed).

331. BOS., MASS., CODE OF ORDINANCES §16-1.8A, ZONING, art. 8, No. 75 (2010); BAKERSFIELD, CAL., MUN. CODE §17.12.010-RS (2011); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007).

332. BAKERSFIELD, CAL., MUN. CODE §17.12.010-RS (2011).

333. BUFFALO, N.Y., CITY CODE §341-11.3 (2009); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(B) (2011); DES MOINES, IOWA, CODE OF ORDINANCES §18-4 (2011); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5(3)(i) (2011); PHOENIX, ARIZ., CITY CODE §8-7 (2011); SACRAMENTO, CAL., CITY CODE §9.44.860 (2011).

334. *E.g.*, AUSTIN, TEX., CODE OF ORDINANCES §3.2.16 (2011) (50 ft.); ANAHEIM, CAL., MUN. CODE §18.38.030.0202 (2011).

335. ATLANTA, GA., CODE OF ORDINANCES §18-7 (2011).

336. L.A., CAL., MUN. CODE §§53.58 & 53.59 (2011) (Department of Animal Services promulgated regulations requiring coops to be 20 ft. from owner's dwelling).

337. WICHITA, KAN., CODE OF ORDINANCES §6.04.173(c) (2011).

338. ST. PAUL, MINN., §198.05 (2011).

339. FREMONT, CAL., MUN. CODE §3-5803 (2011).



Finally, St. Louis wins for the most eccentric setback. It doesn't have any setbacks for neighboring buildings, or the property line, but it does require that chickens be kept out of the milking barn.<sup>340</sup>

## 5. Coop Requirements

Many cities regulate how the chicken coop should be built and maintained. There is a broad range in these regulations, and no two ordinances are alike. Some simply decree that it is unlawful for chickens to run at large, and thus implicitly mandate that the coop be constructed in a secure enough way so that chickens can't easily escape. Some appear to look out for animal welfare by decreeing that chickens should be provided adequate food, water, and shelter in sanitary conditions. And, some appear to try to proactively head off any potential problems by regulating the dimensions of the coop, how it must be built, and exactly how often it must be cleaned. First, some of the more common elements in these statutes will be explored. Then, more unique elements will be discussed.

### a. No Running at Large

First, 33 cities prohibit chickens particularly or animals in general from running at large.<sup>341</sup> Most of those cities simply prohibit chickens from running at large, but some provide for a little more nuance. For instance, Cincinnati does not allow chickens to run at large "so as to do damage to gardens, lawns, shrubbery or other private property."<sup>342</sup> So, presumably, a chicken could run free, as long as it didn't damage anything. Five cities, instead of making it unlawful to run at large, provide that the chicken must be kept enclosed in the coop and

not allowed to escape.<sup>343</sup> And two cities, Richmond and Stockton, frame it in terms of trespass and do not allow chicken trespassers.<sup>344</sup> In any event, all of these statutes imply that a coop, minimally, must be constructed so that the birds cannot escape.

### b. Coops Must Be Clean and Sanitary

Forty-six cities impose some sort of cleaning requirements on chicken owners.<sup>345</sup> While many cities have cleaning requirements that apply to any animal,<sup>346</sup> these cities ordinances are, for the most part, specific to chickens.

Nearly all of these ordinances mandate that the chicken coop be kept in a clean and sanitary condition and free from offensive odors. The degree to which each city regulates this, however, varies. Most cities have a variation on a general requirement that the coop be clean or sani-

343. BUFFALO, N.Y., CITY CODE §341-11.3 (2009); CLEVELAND, OHIO, CODIFIED ORDINANCES §603.01 (2011); FORT WORTH, TEX., CODE OF ORDINANCES §11A-22(c)(3) (2011); FRESNO, CAL., MUN. CODE §10.205 (2011); LOUISVILLE, KY., METRO CODE §91.001 NUISANCE (2011).

344. RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011) (providing that fowl may not trespass); STOCKTON, CAL., MUN. CODE §6.04.130 (2011) (fowl [shall not] to run or go upon the public or private premises of any other person, firm, or corporation; or upon any park or public street or highway within the city).

345. ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-2-2 (2011); AUSTIN, TEX., CODE OF ORDINANCES §10-5-21 (2011); BATON ROUGE, LA., CODE OF ORDINANCES §14:224(c)(1)(c) & (d) (2011); BUFFALO, N.Y., CITY CODE §341-11.3(C) (2009); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102 (2010); CHICAGO, ILL., CODE OF ORDINANCES §7-12-290(b) (2011); CINCINNATI, OHIO, CODE OF ORDINANCES ch. 701-35 (2011); DALLAS, TEX., CODE OF ORDINANCES §7-3.2 (2011); DENVER, COLO., MUN. CODE §8-92 (2011); DES MOINES, IOWA, CODE OF ORDINANCES §18-4(h) (2011); EL PASO, TEX., MUN. CODE §7.24.030 (2011); FORT WAYNE, IND., CODE OF ORDINANCES §91.017 (2011); FORT WORTH, TEX., CODE OF ORDINANCES §11A-22(h) (2011); FRESNO, CAL., MUN. CODE §10.203 (2011); GARLAND, TEX., CODE OF ORDINANCES §22.17 (2011); GLENDALE, ARIZ. MUN. CODE §25-24 (2010); GLENDALE, CAL., MUN. CODE §6.04.020 (2011); HOUSTON, TEX., CODE OF ORDINANCES §6-36 (2010); IRVING, TEX., CODE OF ORDINANCES §6-6 (2011); JERSEY CITY, N.J., CODE OF ORDINANCES §90-8 (2011); KANSAS CITY, MO., CODE OF ORDINANCES §§14-18 & 14-19 (2011); LAS VEGAS, NEV., MUN. CODE §7.36.050 (2011); LINCOLN, NEB., MUN. CODE §6.04.050 (2011); LONG BEACH, CAL., MUN. CODE §6.20.070 (2011); MEMPHIS, TENN., CODE OF ORDINANCES §8-8-1 (2009); MESA, ARIZ., CITY CODE §8-6-22 (2011); MIAMI, FLA., CODE OF ORDINANCES §6-1 (2011); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5 (2011); MOBILE, ALA., CODE OF ORDINANCES §7-103 (2011); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1 (2011); NEWARK, N.J., GENERAL ORDINANCES §6:2-35 (2010); OMAHA, NEB., CODE OF ORDINANCES §6-261 (2011); PHOENIX, ARIZ., CITY CODE §8-7(d) (2011); RICHMOND, VA., CODE OF ORDINANCES §10-88(d) (2011); SAN ANTONIO, TEX., CODE OF ORDINANCES §5-109 (2011); SAN DIEGO, CAL., MUN. CODE §42.0709 (2011); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.755 (2007); SANTA ANA, CAL., CODE OF ORDINANCES §5.6(b) (2011); SCOTTSDALE, ARIZ., CODE OF ORDINANCES §4-18 (2011); ST. PAUL, MINN., §198.04-05 (2011); ST. PETERSBURG, FLA., CODE OF ORDINANCES §4-31(c) (2011); TOLEDO, OHIO, MUN. CODE §1705.07 (2011); TUCSON, ARIZ., CODE OF ORDINANCES §4-58 (2011); TULSA, OKLA., CODE OF ORDINANCES §200(d), (e) & 406 (2011); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.10-13 (no date listed); WICHITA, KAN., CODE OF ORDINANCES §6.04.174 (2011).

346. *E.g.*, ANCHORAGE, ALASKA, CODE OF ORDINANCES §17.10.030 (2011); ATLANTA, GA., CODE OF ORDINANCES §18-8 (2011); FREMONT, CAL., MUN. CODE §3-5600 (2011); MONTGOMERY, ALA., CODE OF ORDINANCES §4-3 (2011); NORFOLK, VA., CODE OF ORDINANCES §6.1-2 ADEQUATE SHELTER (2011); PLANO, TEX., CODE OF ORDINANCES §4-51 (2011); TAMPA, FLA., CODE OF ORDINANCES §19.77 (2008).

340. ST. LOUIS, MO., CODE OF ORDINANCES §11.46.410 (2010).

341. AKRON, OHIO, CODE OF ORDINANCES §92.01 (2011); ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-4-3(D) (2011); ARLINGTON, TEX., ORDINANCES GOVERNING ANIMALS §5.02(e) (2010); BUFFALO, N.Y., CITY CODE §341-11.3 (2009); CINCINNATI, OHIO, CODE OF ORDINANCES §701-33 (2011); CLEVELAND, OHIO, CODIFIED ORDINANCES §603.01 (2011); FORT WORTH, TEX., CODE OF ORDINANCES §11A-22(c)(3) (2011); FRESNO, CAL., MUN. CODE §10.205 (2011); GARLAND, TEX., CODE OF ORDINANCES §22.03 (2011); INDIANAPOLIS, IND., REV. CODE §531.102 (2011); IRVING, TEX., CODE OF ORDINANCES §6-2 (2011); LAS VEGAS, NEV., MUN. CODE §7.36.030 (2011); LEXINGTON-FAYETTE, KY., CODE OF ORDINANCES §4-10 (2011); LONG BEACH, CAL., MUN. CODE §6.20.080 (2011); LOUISVILLE, KY., METRO CODE ch. 91.001 NUISANCE (2011); MEMPHIS, TENN., CODE OF ORDINANCES §8-8-2 (2009); MESA, ARIZ., CITY CODE §8-6-21(I) (2011); MIAMI, FLA., CODE OF ORDINANCES §6-2 (2011); NEWARK, N.J., GENERAL ORDINANCES §6:2-34 (2010); OAKLAND, CAL., CODE OF ORDINANCES §6-04-200 (2011); NORFOLK, VA., CODE OF ORDINANCES §6.1-7 (2011); OMAHA, NEB., CODE OF ORDINANCES §6-263 (2011); PITTSBURGH, PA., CODE OF ORDINANCES §635.02 (2011); RALEIGH, N.C., CODE OF ORDINANCES §12-3004 (2011); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011); ST. PETERSBURG, FLA., CODE OF ORDINANCES §4-31(b) (2011); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.750 (2007); SPOKANE, WASH., MUN. CODE §10.24 (no date listed); STOCKTON, CAL., MUN. CODE §6.04.130 (2011); TACOMA, WASH., MUN. CODE §5.30.020 (2011); TOLEDO, OHIO, MUN. CODE §505.10 (2011); TUCSON, ARIZ., CODE OF ORDINANCES §4-55 (2011); WICHITA, KAN., CODE OF ORDINANCES §6.04.173 (2011).

342. CINCINNATI, OHIO, CODE OF ORDINANCES §701-33 (2011).

tary.<sup>347</sup> Most cities also expressly prohibit odors or offensive odors.<sup>348</sup>

Some cities are a little more explicit and require that the coop be cleaned regularly or routinely.<sup>349</sup> Some cities go further and require the coop to be clean at all times.<sup>350</sup> And some cities regulate precisely how often the coop must be cleaned. Houston is the most fastidious. In Houston, the coop must be cleaned once per day, limed once every other day, and all containers containing chicken manure must be properly disposed of once per week.<sup>351</sup> Milwaukee also requires coops to be cleaned daily and additionally “as is necessary.”<sup>352</sup> The next two most fastidious cities, Des Moines and Santa Ana, require that the coop be cleaned at least every other day.<sup>353</sup> Seven cities require that the coop be cleaned at least twice a week.<sup>354</sup> And another four cities require that the coop be cleaned at least once a week.<sup>355</sup> And, splitting the difference, Jersey City requires the coop to be cleaned once a week from November to May, and twice a week from May to November.<sup>356</sup>

Many cities also have a particular concern with either flies or rodents. Fourteen cities specify that attracting flies will be a nuisance.<sup>357</sup> Cities that specifically mention flies

within their ordinances are congregated mostly in the South or the Southwest.<sup>358</sup> Several mandate that chicken feed or chicken waste be kept in fly-tight containers.<sup>359</sup> Miami requires that a chicken’s droppings be treated to destroy fly maggots before it can be used as fertilizer.<sup>360</sup> Mesa has four cleaning requirements all designed to keep flies away: (1) droppings must be removed twice weekly; (2) “fowl excreta” must be stored in fly-tight containers; (3) water and feed troughs must be kept sanitary; and (4) food and food waste must be kept in a fly-proof container—all explicitly “to prevent the breeding of flies.”<sup>361</sup>

Kansas City’s concern with flies will stand in the way of keeping hens for eggs that would meet organic standards; it mandates the use of insecticide by providing that “all structures, pens or coops wherein fowl are kept or permitted to be shall be sprayed with such substances as will eliminate such insects.”<sup>362</sup> Because chickens eat insects, and because the protein they gain from eating those insects has a beneficial effect on the nutritional value of their eggs, this regulation stands at odds with a reason many people are interested in keeping backyard hens.

Glendale, California, appears to be the most concerned about flies, going so far as to mandate that the owner adhere to impossible building requirements. Glendale requires chickens to be kept in a fly-proof enclosure; it defines fly-proof quite specifically as “a structure or cage of a design which prevents the entry therein or the escape therefrom of any bee, moth or fly.”<sup>363</sup> Because a chicken must enter into and exit from its enclosure, and because one would want the chicken to have access to fresh air and sunlight, such a structure presents itself as an architectural impossibility.

Ten cities are particularly concerned with rats.<sup>364</sup> Of these cities, several are concerned about both flies and rats.<sup>365</sup> Most of these cities simply mandate that the coop be free of rats,<sup>366</sup> but three cities require that food be kept

347. *E.g.*, AUSTIN, TEX., CODE OF ORDINANCES §10-5-21 (2011); FRESNO, CAL., MUN. CODE §10.203 (2011); LONG BEACH, CAL., MUN. CODE §6.20.070 (2011); OMAHA, NEB., CODE OF ORDINANCES §6-261 (2011); SAN ANTONIO, TEX., CODE OF ORDINANCES §5-109 (2011); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.755 (2007); TOLEDO, OHIO, MUN. CODE §1706.07 (2011); WICHITA, KAN., CODE OF ORDINANCES §6.04.174 (2011).

348. *E.g.*, AUSTIN, TEX., CODE OF ORDINANCES §10-5-21 (2011); CINCINNATI, OHIO, CODE OF ORDINANCES §701-35 (2011); DALLAS, TEX., CODE OF ORDINANCES §7-3.2 (2011); FORT WAYNE, IND., CODE OF ORDINANCES §91.017 (2011); FRESNO, CAL., MUN. CODE §10.203 (2011); GARLAND, TEX., CODE OF ORDINANCES §22.17 (2011); KANSAS CITY, MO., CODE OF ORDINANCES §§14-18 & 14-19 (2011); LAS VEGAS, NEV., MUN. CODE §7.36.050 (2011); LINCOLN, NEB., MUN. CODE §6.04.050 (2011); MIAMI, FLA., CODE OF ORDINANCES §6-1 (2011); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1 (2011); OMAHA, NEB., CODE OF ORDINANCES §6-261 (2011); ST. PETERSBURG, FLA., CODE OF ORDINANCES §4-31(c) (2011); TOLEDO, OHIO, MUN. CODE §1705.07 (2011); WICHITA, KAN., CODE OF ORDINANCES §6.04.174 (2011).

349. *E.g.*, BATON ROUGE, LA., CODE OF ORDINANCES §14:224(c)(1)(c) & (d) (2011); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1 (2011); TULSA, OKLA., CODE OF ORDINANCES §§200(d), (e) & 406 (2011).

350. *E.g.*, BUFFALO, N.Y., CITY CODE §341-11.3 (2009); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c) (2010).

351. HOUSTON, TEX., CODE OF ORDINANCES §6-36 (2010).

352. MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5 (2011).

353. DES MOINES, IOWA, CODE OF ORDINANCES §18-137 (2011); SANTA ANA, CAL., CODE OF ORDINANCES §5.6(b) (2011).

354. GARLAND, TEX., CODE OF ORDINANCES §22.17 (2011); GLENDALE, ARIZ., MUN. CODE §25-24(h) (2010); IRVING, TEX., CODE OF ORDINANCES §6-6 (2011); MESA, ARIZ., CITY CODE §8-6-22 (2011); MIAMI, FLA., CODE OF ORDINANCES §6-1 (2011); PHOENIX, ARIZ., CITY CODE §8-7(d) (2011); SCOTTSDALE, ARIZ., CODE OF ORDINANCES §4-18 (2011).

355. ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-2-2(B)(1) (2011); LINCOLN, NEB., MUN. CODE §6.04.050 (2011); NEWARK, N.J., GENERAL ORDINANCES §6:2-35 (2010); SAN DIEGO, CAL., MUN. CODE §42.0709 (2011).

356. JERSEY CITY, N.J., CODE OF ORDINANCES §90-8(C) (2011).

357. AUSTIN, TEX., CODE OF ORDINANCES §10-5-21 (2011); FORT WORTH, TEX., CODE OF ORDINANCES §11A-22(h) (2011); GARLAND, TEX., CODE OF ORDINANCES §22.17 (2011); GLENDALE, CAL., MUN. CODE §6.04.040 (2011); HOUSTON, TEX., CODE OF ORDINANCES §6-36 (2010); KANSAS CITY, MO., CODE OF ORDINANCES §14-19 (2011); LAS VEGAS, NEV., MUN. CODE §7.36.050 (2011); LINCOLN, NEB., MUN. CODE §6.04.050 (2011); MESA, ARIZ., CITY CODE §8-6-23 (2011); MIAMI, FLA., CODE OF ORDINANCES §6-1 (2011); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.755 (2007); SANTA ANA, CAL., CODE OF ORDINANCES §5.6(b) (2011); SCOTTSDALE,

ARIZ., CODE OF ORDINANCES §4-17 & 4-18 (2011); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.11-13 (no date listed).

358. *See supra* note 357.

359. HOUSTON, TEX., CODE OF ORDINANCES §6-36 (2010); MESA, ARIZ., CITY CODE §8-6-23 (2011); SANTA ANA, CAL., CODE OF ORDINANCES §5.6(b) (2011).

360. MIAMI, FLA., CODE OF ORDINANCES §6-1 (2011).

361. MESA, ARIZ., CITY CODE §8-6-23 (2011).

362. KANSAS CITY, MO., CODE OF ORDINANCES §14-15(d) (2011).

363. GLENDALE, CAL., MUN. CODE §6.04.040 (2011).

364. BUFFALO, N.Y., CITY CODE §341-11.13(B)(8) (2009); CINCINNATI, OHIO, CODE OF ORDINANCES §§604.17 & 00053-11 (2011); DENVER, COLO., MUN. CODE §8-92 (2011); FORT WORTH, TEX., CODE OF ORDINANCES §11A-22(h) (2011); KANSAS CITY, MO., CODE OF ORDINANCES §14-15 (2011); LAS VEGAS, NEV., MUN. CODE §7.36.050 (2011); MOBILE, ALA., CODE OF ORDINANCES §7-103 (2011); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1 (2011); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011); SCOTTSDALE, ARIZ., CODE OF ORDINANCES §4-17 (2011); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.12 & 902.13 (no date listed).

365. *E.g.*, CINCINNATI, OHIO, CODE OF ORDINANCES §§604.17 & 00053-11 (2011); KANSAS CITY, MO., CODE OF ORDINANCES §14-15 (2011); LAS VEGAS, NEV., MUN. CODE §7.36.050 (2011); MOBILE, ALA., CODE OF ORDINANCES §7-102 (2011); SCOTTSDALE, ARIZ., CODE OF ORDINANCES §4-17 & 4-18 (2011); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.12 (no date listed).

366. CINCINNATI, OHIO, CODE OF ORDINANCES §00053-11 (2011); FORT WORTH, TEX., CODE OF ORDINANCES §11A-22(d) (2011); KANSAS CITY, MO., CODE OF ORDINANCES §14-15 (2011); LAS VEGAS, NEV., MUN. CODE

within a rat-proof container.<sup>367</sup> Denver appears to have the same antipathy toward rats as Glendale does toward flies. Denver requires that chickens be kept in a rat-proof building. A rat-proof building is one that is made with no “potential openings that rats could exploit and built with “material impervious to rat-gnawing.”<sup>368</sup> While an opening for a rat would necessarily be bigger than an opening for a fly, because chickens will still have to enter and exit the structure, Denver appears to demand similarly impossible architecture.

### c. Coop Construction Requirements

Thirty-seven cities regulate the construction of the chicken coop.<sup>369</sup> Like the cleaning regulations, many of these cities’ ordinances are not particular to chickens, but cover any structure meant to house an animal.<sup>370</sup> But, as demonstrated below, most specifically regulate chicken coops.

Most of these ordinances require that chickens be kept within an enclosure, and many add that the enclosure must

be secure.<sup>371</sup> Some further require that the enclosure keep animals protected from inclement weather.<sup>372</sup> Outside of this, however, there is no consistency to these statutes.

Of the cities that have promulgated shelter requirements specific to chickens, nine of them mandate that each chicken be given a specific amount of space.<sup>373</sup> Of these cities, the average amount of space per chicken is five square feet, although no city actually mandates that.<sup>374</sup> The median amount of space per chicken is four square feet. The mode, or most popular amount, is also four square feet.<sup>375</sup> The next most popular is between two and two-and-one-half square feet.<sup>376</sup> Cleveland requires 10 square feet per chicken, but specifies that this is for the outdoor run, not for the enclosed coop.<sup>377</sup> Rochester also takes the difference between a chicken coop and a chicken run into account and requires at least four square feet per chicken in both the coop and the run.<sup>378</sup> Long Beach does not give a particular square footage per chicken, but requires that each coop be at least twice as big as the bird.<sup>379</sup>

Instead of regulating coop size so specifically, some cities require that the coops not be cramped or overcrowded.<sup>380</sup> Others state that the coop should be big enough for the chicken to move about freely,<sup>381</sup> or have space to stand,

§7.36.050 (2011); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1 (2011); SCOTTSDALE, ARIZ., CODE OF ORDINANCES §4-17 (2011); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.12 & 902.13 (no date listed).

367. BUFFALO, N.Y., CITY CODE §341-11.3 (2009); DES MOINES, IOWA, CODE OF ORDINANCES §18-4(h) (2011); RICHMOND, VA., CODE OF ORDINANCES §10-88 (2011).

368. DENVER, COLO., MUN. CODE §§40.41 & 40.51 (2011).

369. ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-2-2 (2011); ANCHORAGE, ALASKA, CODE OF ORDINANCES §17.05.010 (2011); ARLINGTON, TEX., ORDINANCES GOVERNING ANIMALS §1.01 SECURE ENCLOSURE (2010); ATLANTA, GA., CODE OF ORDINANCES §18-7 (2011); AUSTIN, TEX., CODE OF ORDINANCES §3-2-11 (2011); BALTIMORE, MD., HEALTH CODE §10-409 (2011); BUFFALO, N.Y., CITY CODE §341-11.3 (2009); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c) (2010); CINCINNATI, OHIO, CODE OF ORDINANCES §00053-11 (2011); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(a)(1)(D) & (E) (2011); COLORADO SPRINGS, COLO., CITY CODE §6.7.106(D) (2011); CORPUS CHRISTI, TEX., CODE OF ORDINANCES §6-154 (2011); DES MOINES, IOWA, CODE OF ORDINANCES §18-3(h) (2011); FRESNO, CAL., MUN. CODE §10.205 (2011); GLENDALE, CAL., MUN. CODE §6.04.040 (2011); HOUSTON, TEX., CODE OF ORDINANCES §6-36 (2010); IRVING, TEX., CODE OF ORDINANCES §6-1 SHELTER (2011); JERSEY CITY, N.J., CODE OF ORDINANCES §90-8 (2011); KANSAS CITY, MO., CODE OF ORDINANCES §14-15 (2011); LINCOLN, NEB., MUN. CODE §6.04.050 (2011); LONG BEACH, CAL., MUN. CODE §6.20.100 (2011); LOUISVILLE, KY., METRO CODE §91.001 RESTRAINT (2011); MADISON, WIS., CODE OF ORDINANCES §28.08 (no date listed); MOBILE, ALA., CODE OF ORDINANCES §7-88 (2011); MONTGOMERY, ALA., CODE OF ORDINANCES §4-161 (2011); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1 (2011); NORFOLK, VA., CODE OF ORDINANCES §6.1-2 (2011); OKLAHOMA CITY, OKLA., MUN. CODE §8-96(c) & (e) (2011); PLANO, TEX., CODE OF ORDINANCES §4-1 SECURE ENCLOSURE & SHELTER (2011); ROCHESTER, N.Y., CITY ORDINANCES §30-19 (no date listed); SAN ANTONIO, TEX., CODE OF ORDINANCES §5-9 (2011); SAN JOSE, CAL., CODE OF ORDINANCES §§7.20.020 & 7.60.760 (2007); SANTA ANA, CAL., CODE OF ORDINANCES §5.6(b) (2011); SEATTLE, WASH., MUN. CODE §23.42.052(c)(3) (2011); TACOMA, WASH., MUN. CODE §17.01.010 (2011); TUCSON, ARIZ., CODE OF ORDINANCES §4-3(2) (c) (2011); TULSA, OKLA., CODE OF ORDINANCES §406 (2011).

370. ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-2-2 (2011); ANCHORAGE, ALASKA, CODE OF ORDINANCES §17.05.010 (2011); ARLINGTON, TEX., ORDINANCES GOVERNING ANIMALS §1.01 SECURE ENCLOSURES (2010); BALTIMORE, MD., HEALTH CODE §10-409 (2011); IRVING, TEX., CODE OF ORDINANCES §6-1 (2011); MOBILE, ALA., CODE OF ORDINANCES §7-15 (2011); MONTGOMERY, ALA., CODE OF ORDINANCES §4-161 (2011); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1 (2011); NORFOLK, VA., CODE OF ORDINANCES §6.1-2 (2011); PLANO, TEX., CODE OF ORDINANCES §4-1 (2011); TUCSON, ARIZ., CODE OF ORDINANCES §4-3(2)(c) (2011).

371. *E.g.*, ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-2-2 (2011); ANCHORAGE, ALASKA, CODE OF ORDINANCES §17.05.010 (2011); ARLINGTON, TEX., ORDINANCES GOVERNING ANIMALS §1.01 SECURE ENCLOSURES (2010); ATLANTA, GA., CODE OF ORDINANCES §18-7 (2011); AUSTIN, TEX., CODE OF ORDINANCES §3-2-11 (2011); BUFFALO, N.Y., CITY CODE §341-11.3 (2009); DES MOINES, IOWA, CODE OF ORDINANCES §18-3(h) (2011); GLENDALE, CAL., MUN. CODE §6.04.040 (2011); IRVING, TEX., CODE OF ORDINANCES §6-1 (2011); KANSAS CITY, MO., CODE OF ORDINANCES §14-15 (2011); LOUISVILLE, KY., METRO CODE §91.001 (2011); MADISON, WIS., CODE OF ORDINANCES §28.08 (no date listed); MONTGOMERY, ALA., CODE OF ORDINANCES §4-161 (2011); NORFOLK, VA., CODE OF ORDINANCES §6.1-2 (2011); PLANO, TEX., CODE OF ORDINANCES §4-1 (2011); TACOMA, WASH., MUN. CODE §17.01.010 (2011).

372. *E.g.*, NORFOLK, VA., CODE OF ORDINANCES §6.1-2 (2011) (providing that a shelter must protect “each animal from injury, rain, sleet, snow, hail, direct sunlight”); PLANO, TEX., CODE OF ORDINANCES §4-1 (2011) (providing that fowl should be housed in a “structure that is capable of providing cover and protection from the weather”); TULSA, OKLA., CODE OF ORDINANCES §406 (2011) (“Natural or artificial shelters appropriate to the local climatic conditions for the particular species of animal or fowl shall be provided for all animals or fowl kept outdoors.”).

373. ATLANTA, GA., CODE OF ORDINANCES §18-7(1)(d) (2011) (2 sq. ft.); BUFFALO, N.Y., CITY CODE §341-11.3(B)(3) (2009) (2 sq. ft.); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c) (2010) (4 sq. ft.); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(D) & (E) (2011) (10 sq. ft.); COLORADO SPRINGS, COLO., CITY CODE §6.7.106(D) (2011) (4 sq. ft.); LONG BEACH, CAL., MUN. CODE §6.20.100 (2011) (twice the size of the fowl); MOBILE, ALA., CODE OF ORDINANCES §7-88 (2011) (15 sq. ft.); ROCHESTER, N.Y., CITY ORDINANCES §30-19 (no date listed) (4 sq. ft.); SANTA ANA, CAL., CODE OF ORDINANCES §5.6(b)(3) (2011) (2.5 sq. ft.).

374. *See supra* note 373.

375. CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c) (2010); COLORADO SPRINGS, COLO., CITY CODE §6.7.106(D) (2011); ROCHESTER, N.Y., CITY ORDINANCES §30-19 (no date listed).

376. ATLANTA, GA., CODE OF ORDINANCES §18-7(1)(d) (2011); BUFFALO, N.Y., CITY CODE §341-11.3(B)(3) (2009); SANTA ANA, CAL., CODE OF ORDINANCES §5.6(b)(3) (2011).

377. CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(D) & (E) (2011).

378. ROCHESTER, N.Y., CITY ORDINANCES §30-19 (no date listed).

379. LONG BEACH, CAL., MUN. CODE §6.20.100 (2011).

380. *E.g.*, CINCINNATI, OHIO, CODE OF ORDINANCES §701-35 (2011).

381. CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(D) (2011).



turn around, and lie down.<sup>382</sup> Des Moines is unique, in that it looks to state or national standards for the coop size, providing that “such enclosures shall be of sufficient size to house the number of animals or fowl permitted by state or national standards.”<sup>383</sup>

Some cities also mandate how large the coop can be. The coop sizes also lack uniformity—both Buffalo and Cleveland provide that the coop can be no larger than 32 square feet, but Cleveland will allow the coop to be up to 15 feet high, while Buffalo caps height at seven feet.<sup>384</sup> Seattle allows for up to 1,000 square feet and caps the height at 12 feet.<sup>385</sup> Finally, Charlotte is the only city that provides for a minimum height by requiring the coops to be at least 18 inches high.<sup>386</sup>

Other requirements that turn up in more than one city is that the coop’s floor be impervious,<sup>387</sup> the coop be adequately ventilated,<sup>388</sup> and the coop be kept dry or allow for drainage.<sup>389</sup> Some cities mandate that the enclosure protect the chickens from predators.<sup>390</sup> And, Buffalo, Cleveland, and Colorado Springs require that the chickens have access to an outdoor run.<sup>391</sup>

Two cities stand at odds on the issue of keeping chickens within solid walls. Baltimore prohibits chickens from being confined in a cage entirely of solid walls,<sup>392</sup> while Corpus Christi, to avoid large setbacks, requires that chickens be confined entirely within solid walls.<sup>393</sup>

And some cities have entirely unique ordinances. Irving is concerned with protecting chickens from inclement weather; it requires protection from the direct rays of the

sun when the temperature is over 90 degrees and protection from direct exposure to wind when the temperature is below 50 degrees.<sup>394</sup> Jersey City’s ordinance stands out for its thoughtfulness.<sup>395</sup> It requires that the coop contain windows if possible, that the coop be white-washed or painted, and that the coop contain removable perches and nests, so that they can be cleaned on a regular basis.<sup>396</sup> Rochester does not allow fowl to be kept in a cellar.<sup>397</sup> And San Antonio requires that the coop be built so that the chicken’s feet do not fall through the floor.<sup>398</sup>

#### d. Giving Authority Over Coop Requirements to a City Official

Instead of legislating coop requirements through City Council, four cities delegate to some other city official. San Francisco requires the coop structure to be approved by the Department of Health<sup>399</sup>; Washington, D.C., assigns it to the Director of the Department of Human Services.<sup>400</sup> Columbus requires its Health Commissioner to approve the structure.<sup>401</sup> St. Louis allows its Animal Health Commissioner to set standards for coop construction.<sup>402</sup> And finally, Rochester mandates that the coop will, at all times, be subject to inspection and subject to the orders of its Chief of Police.<sup>403</sup>

#### e. Feed and Water Requirements

Eleven cities are concerned that chickens receive enough food and water.<sup>404</sup> Most of these simply mandate that chickens receive adequate or sanitary food and water, but three of the cities show special concern with the chicken’s welfare. Long Beach and Los Angeles require chickens to be given water every 12 hours.<sup>405</sup> Memphis and Omaha require that the chickens not only be given sufficient food but also “wholesome” food and water.<sup>406</sup> And Buffalo requires that chickens be fed only through an approved

382. LONG BEACH, CAL., MUN. CODE §6.20.100 (2011) (providing that animals must have enough space to stand in a naturally erect position); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1(a)(2) (2011); PLANO, TEX., CODE OF ORDINANCES §4-1 SECURE ENCLOSURE & SHELTER (2011); TUCSON, ARIZ., CODE OF ORDINANCES §4-3(2)(c) (2011).

383. DES MOINES, IOWA, CODE OF ORDINANCES §18-3(h) (2011).

384. CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(D) (2011); BUFFALO, N.Y., CITY CODE §341-11.3(B)(7) (2009).

385. SEATTLE, WASH., MUN. CODE §23.42.052(c)(3) (2011).

386. CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c) (2010).

387. *E.g.*, ARLINGTON, TEX., ORDINANCES GOVERNING ANIMALS §1.01 SECURE ENCLOSURE (2010); GLENDALE, CAL., MUN. CODE §6.04.040 (2011); LINCOLN, NEB., MUN. CODE §6.04.050 (2011) (requiring that, if a coop is less than 7,500 square feet, that the flooring be made of hard surface material); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1(a)(1) (2011); PLANO, TEX., CODE OF ORDINANCES §4-1 SECURE ENCLOSURE & SHELTER (2011); SANTA ANA, CAL., CODE OF ORDINANCES §5.6(b)(2) (2010) (providing that the “floors of every such building shall be smooth and tight”).

388. *E.g.*, BUFFALO, N.Y., CITY CODE §341-11.3(B)(7) (2009); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c) (2010); JERSEY CITY, N.J., CODE OF ORDINANCES §90-8 (2011); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1(a)(1) (2011); PLANO, TEX., CODE OF ORDINANCES §4-1 SECURE ENCLOSURE & SHELTER (2011).

389. *E.g.*, JERSEY CITY, N.J., CODE OF ORDINANCES §90-8 (2011); NEW ORLEANS, LA., CODE OF ORDINANCES §18-2.1(a)(1) (2011); SANTA ANA, CAL., CODE OF ORDINANCES §5.6(b)(2) (2011).

390. BUFFALO, N.Y., CITY CODE §341-11.3(B)(3) & (4) (2009); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(D). *See also* Nashville-Davidson, Memo from John Cooper, Director Metropolitan Council Office, to All Members of Metropolitan Council (Sept. 1, 2009) (on file with author) (providing that coops must be kept in a predator-proof enclosure).

391. BUFFALO, N.Y., CITY CODE §341-11.3(B)(1) (2009); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(D) & (E) (2011); COLORADO SPRINGS, COLO., CITY CODE §6.7.106(D) (2011).

392. BALTIMORE, MD., HEALTH CODE §10-409 (2011).

393. CORPUS CHRISTI, TEX., CODE OF ORDINANCES §6-154 (2011).

394. IRVING, TEX., CODE OF ORDINANCES §6-1 SHELTER (2011).

395. JERSEY CITY, N.J., CODE OF ORDINANCES §90-8 (2011).

396. *Id.*

397. ROCHESTER, N.Y., CITY ORDINANCES §30-19 (no date listed).

398. SAN ANTONIO, TEX., CODE OF ORDINANCES §5-9 (2011).

399. SAN FRANCISCO, CAL., HEALTH CODE §37(b) (2011).

400. WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.7(c) (no date listed).

401. COLUMBUS, OHIO, CITY CODE §221.05(b) (2011).

402. ST. LOUIS, MO., CODE OF ORDINANCES §10.20.016 (2010).

403. ROCHESTER, N.Y., CITY ORDINANCES §30-19 (no date listed).

404. BATON ROUGE, LA., CODE OF ORDINANCES §14:224(c)(1)(d) (2011); BUFFALO, N.Y., CITY CODE §341-11.3(B)(9) (2009); CHICAGO, ILL., CODE OF ORDINANCES §7-12-290(b) (2011); CINCINNATI, OHIO, CODE OF ORDINANCES §701-35 (2011); LONG BEACH, CAL., MUN. CODE §6.20.090 (2011); L.A., CAL., MUN. CODE §53.46 (2011); MEMPHIS, TENN., CODE OF ORDINANCES §8-8-1 (2009); MESA, ARIZ., CITY CODE §8-6-23(C) (2011); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5 (2011); MONTGOMERY, ALA., CODE OF ORDINANCES §4-161 (2011); OMAHA, NEB., CODE OF ORDINANCES §6-261 (2011).

405. LONG BEACH, CAL., MUN. CODE §6.20.090 (2011); L.A., CAL., MUN. CODE §53.46 (2011).

406. MEMPHIS, TENN., CODE OF ORDINANCES §8-8-1 (2009); OMAHA, NEB., CODE OF ORDINANCES §6-261 (2011).

trough and prohibits feeding them through scattering food on the ground.<sup>407</sup>

## 6. Permit Requirements

Thirty-eight cities require a permit to keep chickens under certain circumstances.<sup>408</sup> Like all of the other regulations, there is very little consistency. Eleven cities require permits for more than a maximum number of chickens.<sup>409</sup> The average number the city allows before requiring a permit is seven. The average is high because San Diego allows up to 20 chickens before seeking a permit.<sup>410</sup> The median is five and the mode, with three cities, Saint Louis, Santa Ana and Spokane, is four. Two cities, El Paso and San Jose, allow for six.<sup>411</sup> And, two cities, Portland and Wichita allow for three.<sup>412</sup> Two cities require a permit if one seeks

to place the chickens within the legislated setbacks.<sup>413</sup> And one city, Riverside, only requires a permit if one wants to keep roosters.<sup>414</sup>

The remaining 24 cities require a permit to keep chickens under all circumstances.<sup>415</sup> Permit renewal periods and fees also differ substantially among cities. Of the cities that require permits to keep chickens in all circumstances, there is little agreement for how long these permits should last or how much they should cost. At least 10 of them require permit holders to renew annually.<sup>416</sup> Two have an initial term of one year, but then either allow or require five-year permits after that.<sup>417</sup> Cleveland has a biennial permit.<sup>418</sup> Mobile allows for the permit to remain valid until revoked by the health officer.<sup>419</sup> And several simply don't specify how long the permit will last.<sup>420</sup>

There is also a lot of variety among cities in where to go to get the permit. Cleveland, Columbus, Omaha, and Norfolk grant the public health departments the authority to grant permits<sup>421</sup>; Newark gives it to the Director of the Department of Child and Family Well-Being<sup>422</sup>; Sacramento to the Animal Care Services Operator<sup>423</sup>; Tacoma

407. BUFFALO, N.Y., CITY CODE §341-11.3(B)(9) (2009).

408. BALTIMORE, MD., HEALTH CODE §10-312 (2011); BOS., MASS., CODE OF ORDINANCES §16-1.8A (2010); BUFFALO, N.Y., CITY CODE §341-11.4 (2009); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102 (2010); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(i) & (j) (2011); COLUMBUS, OHIO, CITY CODE §221.05 (2011); DENVER, COLO., MUN. CODE §8-91 (2011); DES MOINES, IOWA, CODE OF ORDINANCES §18-4(i), (j) (2011); EL PASO, TEX., MUN. CODE §§7.24.020 & 7.24.050 (2011); FREMONT, CAL., MUN. CODE §3-5803 (2011); HOUSTON, TEX., CODE OF ORDINANCES §6-38 (2010); JERSEY CITY, N.J., CODE OF ORDINANCES §90-7 (2011); KANSAS CITY, MO., CODE OF ORDINANCES §14-15(h) (2011); LINCOLN, NEB., MUN. CODE §6.04.070 (2011); MADISON, WIS., CODE OF ORDINANCES §9.52 (no date listed); MIAMI, FLA., CODE OF ORDINANCES §6-1(b) (2011); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5 (2011); MINNEAPOLIS, MINN., CODE OF ORDINANCES §70.10 (2011); MOBILE, ALA., CODE OF ORDINANCES §7-102 (2011); NEWARK, N.J., GENERAL ORDINANCES §6:2-30 (2010); NORFOLK, VA., CODE OF ORDINANCES §6.1-7 (2011); OMAHA, NEB., CODE OF ORDINANCES §6-266 (2011); PHILA PLANO, TEX., CODE OF ORDINANCES §4-81 (2011); PORTLAND, OR., CITY CODE §13.05.015 (2011); RIVERSIDE, CAL., CODE OF ORDINANCES §17.206.020 (2011); ROCHESTER, N.Y., CITY ORDINANCES §§30-12 & 30-15 (no date listed); SACRAMENTO, CAL., CITY CODE §§9.44.870 & 9.44.880 (2011); SAN ANTONIO, TEX., CODE OF ORDINANCES §5-109(c) (2011); SAN DIEGO, CAL., MUN. CODE §42.0713 (2011); SAN FRANCISCO, CAL., HEALTH CODE §37(d) (2011); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.700 (2007); SANTA ANA, CAL., CODE OF ORDINANCES §§5.6 & 23.42.051(B) (2011); SPOKANE, WASH., MUN. CODE §17C.310.100 (no date listed); ST. LOUIS, MO., CODE OF ORDINANCES §10.20.015(c) (2010); ST. PAUL, MINN., §198.02 (2011); TACOMA, WASH., MUN. CODE §5.30.010 (2011); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §§902.1 & 902.3-4 (no date listed); WICHITA, KAN., CODE OF ORDINANCES §6.04.157 (2011).

409. EL PASO, TEX., MUN. CODE §7.24.020 (2011) (requiring permit if more than six); LINCOLN, NEB., MUN. CODE §6.04.040 (2011) (requiring permit if more than 5, if fowl weigh over five pounds and more than 20 for fowl between three and five pounds); PLANO, TEX., CODE OF ORDINANCES §4-81 (2011) (requiring permit if more than 10); PORTLAND, OR., CITY CODE §13.05.015(E) (2011) (requiring permit if more than three); SAN ANTONIO, TEX., CODE OF ORDINANCES §5-109(c) (2011) (requiring permit if more than five); SAN DIEGO, CAL., MUN. CODE §42.0713 (2011) (requiring permit if more than 25); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.700(A) (2007) (requiring permit if more than six); SANTA ANA, CAL., CODE OF ORDINANCES §5.6 (2011) (requiring permit if more than four); SPOKANE, WASH., MUN. CODE §§17C.310.100 & 10.20.015(c) (no date listed) (requiring permit if more than four); ST. LOUIS, MO., CODE OF ORDINANCES §10.20.015(c) (2010) (requiring permit if more than four); WICHITA, KAN., CODE OF ORDINANCES §6.04.157 (2011) (requiring permit if more than three).

410. SAN DIEGO, CAL., MUN. CODE §42.0713 (2011).

411. EL PASO, TEX., MUN. CODE §7.24.020 (2011); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.700(A) (2007).

412. PORTLAND, OR., CITY CODE §13.05.015(E) (2011); WICHITA, KAN., CODE OF ORDINANCES §6.04.157 (2011).

413. KANSAS CITY, MO., CODE OF ORDINANCES §14-15(h) (2011) (requiring permit if want to be within setback); TACOMA, WASH., MUN. CODE §5.30.010 (2011) (requiring permission from city clerk to put coop within setback).

414. RIVERSIDE, CAL., CODE OF ORDINANCES §17.206.020 (2011).

415. BALTIMORE, MD., HEALTH CODE §10-312 (2011); BOS., MASS., CODE OF ORDINANCES §16-1.8A (2010); BUFFALO, N.Y., CITY CODE §341-11.4 (2009); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102 (2010); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(i) & (j) (2011); COLUMBUS, OHIO, CITY CODE §221.05 (2011); DENVER, COLO., MUN. CODE §8-91 (2011); DES MOINES, IOWA, CODE OF ORDINANCES §18-4(i), (j) (2011); FREMONT, CAL., MUN. CODE §3-5803 (2011); HOUSTON, TEX., CODE OF ORDINANCES §6-38 (2010); JERSEY CITY, N.J., CODE OF ORDINANCES §90-7 (2011); MADISON, WIS., CODE OF ORDINANCES §9.52 (no date listed); MIAMI, FLA., CODE OF ORDINANCES §6-1(b) (2011); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5 (2011); MINNEAPOLIS, MINN., CODE OF ORDINANCES §70.10 (2011); MOBILE, ALA., CODE OF ORDINANCES §7-102 (2011); NEWARK, N.J., GENERAL ORDINANCES §6:2-30 (2010); NORFOLK, VA., CODE OF ORDINANCES §6.1-7 (2011); OMAHA, NEB., CODE OF ORDINANCES §6-266 (2011); ROCHESTER, N.Y., CITY ORDINANCES §§30-12 & 30-15 (no date listed); SACRAMENTO, CAL., CITY CODE §§9.44.870 & 9.44.880 (2011); SAN FRANCISCO, CAL., HEALTH CODE §37(d) (2011); ST. PAUL, MINN., §198.02 (2011); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §§902.1 & 902.3-4 (no date listed).

416. BUFFALO, N.Y., CITY CODE §341-11.4 (2009); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(a) (2010); FREMONT, CAL., MUN. CODE §3-5906 (2011); JERSEY CITY, N.J., CODE OF ORDINANCES §90-7 (2011); LINCOLN, NEB., MUN. CODE §6.04.110 (2011); MADISON, WIS., CODE OF ORDINANCES §9.52 (no date listed); NEWARK, N.J., GENERAL ORDINANCES §6:2-30 (2010); OMAHA, NEB., CODE OF ORDINANCES §6-271 (2011); ROCHESTER, N.Y., CITY ORDINANCES §30-15 (no date listed); ST. PAUL, MINN., §198.04 (2011); WASH., D.C., MUN. REGULATIONS FOR ANIMAL CONTROL §902.3 (no date listed).

417. KANSAS CITY, MO., CODE OF ORDINANCES §14-15(h) (2011); MINNEAPOLIS, MINN., CODE OF ORDINANCES §70.10 (2011) (five-year period offered as a choice).

418. CLEVELAND, OHIO, CODIFIED ORDINANCES §205.04 (2011).

419. MOBILE, ALA., CODE OF ORDINANCES §7-102 (2011).

420. *E.g.*, NORFOLK, VA., CODE OF ORDINANCES §6.1-7 (2011); PLANO, TEX., CODE OF ORDINANCES §4-81 (2011); SANTA ANA, CAL., CODE OF ORDINANCES §5.6 (2011); TACOMA, WASH., MUN. CODE §5.30.010 (2011).

421. CLEVELAND, OHIO, CODIFIED ORDINANCES §205.04 (2011); COLUMBUS, OHIO, CITY CODE §221.05 (2011); OMAHA, NEB., CODE OF ORDINANCES §6-266 (2011); NORFOLK, VA., CODE OF ORDINANCES §6.1-7 (2011).

422. NEWARK, N.J., GENERAL ORDINANCES §6:2-30 (2010).

423. SACRAMENTO, CAL., CITY CODE §9-44-870 (2011).



to the City Clerk<sup>424</sup>; and Boston to the Inspectional Services Department.<sup>425</sup> Most cities, however, do not state in the ordinance by what means a person actually procures a permit.<sup>426</sup>

Three cities use the permit process to make sure that would-be chicken owners have the consent of their neighbors. St. Paul, Minnesota, requires that an applicant show, through written consent, that 75% of the owners or occupants of property within 150 feet have given permission for the chickens.<sup>427</sup> Las Vegas requires written consent of neighbors within 350 feet.<sup>428</sup> Buffalo and Milwaukee also requires written consent from adjacent landowners to secure a permit.<sup>429</sup> Riverside, California, allows residents to keep hens without a permit, but requires a permit, with written permission from the neighbors, to keep more than six roosters.<sup>430</sup>

Finally, some cities use the permitting schemes to ensure that chicken owners comply with a long list of regulations. For instance, Buffalo has set forth a labyrinthine process for securing a “chicken license.”<sup>431</sup> It requires the license seeker to provide his name, address, number of chickens sought, and the location of the coop. The city then notifies neighboring landowners with property within 50 feet of the applicant’s property of the application and allows them to provide written comments. The city also notifies the mayor and City Council. If the city clerk does not receive any comments, the clerk can issue a license for up to five hens. But if anyone lodges a negative comment, then the permit goes to City Council and Council must determine, after taking in the entire record before it, if the city will grant the license. If the Council approves it, it goes to the mayor, who has the power to veto it; if he does so—it would require a 2/3 majority at the following Council meeting to

pass.<sup>432</sup> If the permit is granted, then the Animal Control Officer must inspect the coop before the licensee is actually allowed to get chickens.<sup>433</sup> Then, the licensee has to procure a separate license from the building department to build the chicken coop.<sup>434</sup>

And then Buffalo requires similar procedures for renewing the license each year. Each license automatically expires on June 1. From May 1 to June 1, the city opens up a comment period for anyone to complain about licensed chickens. The City Council is to consider all of these comments and any rebuttals to them before deciding whether to renew the license. The City Council can also revoke the license at any time if it hears any complaints about the licensee.<sup>435</sup>

This licensing scheme appears designed to ameliorate concerns that the city will be overwhelmed with complaints. But the resources the city puts into this process and the time it is requiring councilmembers and the mayor to put into it if a single person registers a negative comment must far outweigh any resources the city would be using to prosecute rogue chickens owners.

Many cities also charge fees for these permits. Because many cities do not list their fees on any publicly accessible website, it is difficult to draw strong conclusions on the norm for how much a city charges. But, 14 cities’ fees were identified.<sup>436</sup> Three of the 14 charged an initial fee, Milwaukee charged a \$25 initial fee, Minneapolis \$50, and St. Paul \$72.<sup>437</sup> Thirteen cities, including Minneapolis and St. Paul, charged annual fees.<sup>438</sup> The fees ranged from specifying that the permit would be free to \$50 per year. The average annual fee was \$29, although no city charged that amount. The median fee and the mode are both \$25 per year. Two cities legislated late charges into the statute, Lincoln has a \$25 late fee,<sup>439</sup> and Madison charges \$5 if a permit is renewed late.<sup>440</sup> Finally, Minneapolis gives a \$50 discount from the annual fee if a licensee renews for five years, instead of paying \$40 a year, one can pay \$150 for a five-year period.<sup>441</sup>

424. TACOMA, WASH., MUN. CODE §5.30.010 (2011).

425. BOS., MASS., CODE OF ORDINANCES §16-1.8A (2010).

426. E.g., CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(a) (2010) (providing that the “bureau” will issue the permit.); JERSEY CITY, N.J., CODE OF ORDINANCES §90-7 (2011) (providing that the “licensing issuing authority” will grant the permit).

427. ST. PAUL, MINN., §198.04(b) (2011):

The applicant for any permit required under the provisions of section 198.02 shall provide with the application the written consent of seventy-five (75) percent of the owners or occupants of privately or publicly owned real estate within one hundred fifty (150) feet of the outer boundaries of the premises for which the permit is being requested or, in the alternative, proof that applicant’s property lines are one hundred fifty (150) feet or more from any structure. However, where a street separates the premises for which the permit is being requested from other neighboring property, no consent is required from the owners or occupants of property located on the opposite side of the street. Where a property within one hundred fifty (150) feet consists of a multiple dwelling, the applicant need obtain only the written consent of the owner or manager, or other person in charge of the building.

428. LAS VEGAS, NEV., MUN. CODE §7.38.050 (2011).

429. BUFFALO, N.Y., CITY CODE §341-11.2 (2009) (“No chicken hens shall be allowed without the express written consent of all residents residing on property adjacent to that of the applicant.”); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5 (2011) (Before a permit is issued for the keeping of chickens, the applicant shall obtain the written consent of the owner of the property where the chickens shall be kept and owners of all directly or diagonally abutting properties, including those across an alley.”)

430. RIVERSIDE, CAL., CODE OF ORDINANCES §6.05.020 (2011).

431. BUFFALO, N.Y., CITY CODE §341-11.4 (2009).

432. BUFFALO, N.Y., CITY CHARTER §3-19.

433. BUFFALO, N.Y., CITY CODE §341-11.4 (2009).

434. *Id.*

435. *Id.*

436. BUFFALO, N.Y., CITY CODE §341-11.1(G) (2009) (\$25 annual fee); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(a) (2010) (\$50 annual fee); DENVER, COLO., MUN. CODE §8-91 (2011) (\$50 annual fees as listed on city website at <http://www.denvergov.org/FrequentlyAskedQuestionsandRelatedLinks/tabid/434759/Default.aspx>); JERSEY CITY, N.J., CODE OF ORDINANCES §90-7 (2011) (\$25 annual fee); LINCOLN, NEB., MUN. CODE §6.04.090 (2011) (\$50 annual fee with a \$25 late fee); MADISON, WIS., CODE OF ORDINANCES §9.52 (no date listed) (\$10 annual fee with a \$5 late fee); MILWAUKEE, WIS., CODE OF ORDINANCES §60-7 (2011) (\$35 initial fee); MINNEAPOLIS, MINN., CODE OF ORDINANCES §70.10(f) (2011) (\$50 initial fee and \$40 annual fee); MOBILE, ALA., CODE OF ORDINANCES §7-102 (2011) (specifies that permits are free); NEWARK, N.J., GENERAL ORDINANCES §6:2-31 (2010) (\$10 annual fee); ROCHESTER, N.Y., CITY ORDINANCES §30-16 (no date listed) (\$37 annual fee); ST. LOUIS, MO., CODE OF ORDINANCES §10.20.013(f) (2010) (\$40 annual fee); ST. PAUL, MINN., §198.04(c) (2011) (\$72 initial fee and \$25 annual fee); WICHITA, KAN., CODE OF ORDINANCES §6.04.157 (2011) (\$25 annual fee).

437. *Supra* note 436 and accompanying text.

438. *Id.*

439. LINCOLN, NEB., MUN. CODE §6.04.090 (2011).

440. MADISON, WIS., CODE OF ORDINANCES §9.52 (no date listed).

441. MINNEAPOLIS, MINN., CODE OF ORDINANCES §70.10(g) (2011).

## 7. Slaughtering

Thirteen cities regulate slaughtering<sup>442</sup>; however, of those, only six ban slaughtering altogether.<sup>443</sup> Three cities, Buffalo, Charlotte, and Pittsburgh, allow chickens to be slaughtered, but require that it not occur outdoors or in a public place.<sup>444</sup> Cleveland allows a chicken to be slaughtered on site, but only if it is meant to be consumed on the occupant's premises.<sup>445</sup> San Francisco requires that any slaughter occur in an "entirely separate" room than the one that fowl occupy.<sup>446</sup> Rochester requires a poulterer's license to both keep chickens and slaughter them.<sup>447</sup> And, Glendale, in keeping with its aversion to rats described above, only allows for slaughter if it occurs in a rat-proof structure.<sup>448</sup>

Several other cities only ban slaughter if a person is killing another's chickens without permission.<sup>449</sup> Chesapeake is particularly concerned with dogs killing chickens. Chesapeake mandates compensation of no more than \$10 per fowl, if a dog or hybrid dog kills a chicken.<sup>450</sup>

Finally, several cities stand directly opposed concerning the killing of chickens for animal sacrifice. Chicago's ordinance banning the slaughter of chickens is directed toward chickens killed for animal sacrifice; it provides in the ordinance that this "section is applicable to any cult that kills (sacrifices) animals for any type of ritual, regard-

less of whether or not the flesh or blood of the animal is to be consumed."<sup>451</sup> Wichita, however, while banning the slaughter of chickens, states that the ordinance does not apply "to the slaughter of animals as part of religious practices."<sup>452</sup> And, Los Angeles expressly allows slaughter both for food and religious purposes.<sup>453</sup>

## 8. Roosters

Many cities that allow for hens ban roosters. Twenty-six cities prohibit roosters.<sup>454</sup> Of these cities, four have exceptions: Phoenix will allow a rooster only if it is incapable of making vocal noises<sup>455</sup>; Rochester and San Jose will allow roosters under four months of age<sup>456</sup>; and Sacramento only prohibits roosters on developed lots used exclusively for residential purposes.<sup>457</sup> Fort Wayne does not say anything about roosters, but its ordinance effectively bans them by defining poultry only as "laying hens."<sup>458</sup>

Many cities, instead of banning roosters altogether impose very large setbacks for roosters, require a larger property size for roosters, or relegate roosters to agriculturally zoned land. Four cities require relatively large setbacks for roosters: Cleveland requires 100-foot setbacks<sup>459</sup>; Kansas City, 300 feet<sup>460</sup>; Oklahoma City, 400 feet<sup>461</sup>; and Glendale, California, requires 500 feet.<sup>462</sup> Wichita will also allow for roosters if they are more than 500 feet from any residentially zoned lot.<sup>463</sup> Three cities require greater

442. BUFFALO, N.Y., CITY CODE §341-11.3(d) (2009); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c)(4) (2010); CHI., ILL., CODE OF ORDINANCES §17-12-300 (2011); CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(h) (2011); GLENDALE, CAL., MUN. CODE §8.48.020 (2011); MADISON, WIS., CODE OF ORDINANCES §2809(9)(b)(6) (no date listed); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5(3)(b) (2011); Nashville-Davidson, Tenn. Memo from John Cooper, Director Metropolitan Council Office, to All Members of Metropolitan Council (Sept. 1, 2009) (on file with author); PITTSBURGH, PA., CODE OF ORDINANCES §911.04.A.2 (2011); ROCHESTER, N.Y., CITY ORDINANCES §30-12 (no date listed); SACRAMENTO, CAL., CITY CODE §9.44.860 (2011); SAN FRANCISCO, CAL., HEALTH CODE §37(d)(5) (2011); WICHITA, KAN., CODE OF ORDINANCES §6.04.175(p) (2011).

443. CHI., ILL., CODE OF ORDINANCES §17-12-300 (2011) ("No person shall own, keep or otherwise possess, or slaughter any sheep, goat, pig, cow or the young of such species, poultry, rabbit, dog, cat, or any other animal, intending to use such animal for food purposes."); MADISON, WIS., CODE OF ORDINANCES §2809(9)(b)(6) (no date listed) ("No person shall slaughter any chickens."); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5(3)(b) (2011); ("No person shall slaughter any chickens."); Nashville-Davidson, Tenn. Memo from John Cooper, Director Metropolitan Council Office, to All Members of Metropolitan Council (Sept. 1, 2009) (on file with author); SACRAMENTO, CAL., CITY CODE §9.44.860 (2011) ("No hen chickens shall be slaughtered on any developed lot used exclusively for residential purposes."); WICHITA, KAN., CODE OF ORDINANCES §6.04.175(p) (2011) (prohibiting slaughtering "on residentially zoned lots or lots utilized for residential purposes").

444. BUFFALO, N.Y., CITY CODE §341-11.3(d) (2009) ("There shall be no outdoor slaughtering of chicken hens."); CHARLOTTE, N.C., CODE OF ORDINANCES §3-102(c)(4) (2010); (providing that any slaughter "shall be done only in a humane and sanitary manner and shall not be done open to the view of any public area or adjacent property owned by another"); PITTSBURGH, PA., CODE OF ORDINANCES §911.04.A.2 (2011) ("Killing or dressing of poultry raised on the premises shall be permitted if conducted entirely within an enclosed building.");

445. CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(h) (2011).

446. SAN FRANCISCO, CAL., HEALTH CODE §37(d)(5) (2011).

447. ROCHESTER, N.Y., CITY ORDINANCES §30-12 (no date listed).

448. GLENDALE, CAL., MUN. CODE §8.48.020 (2011).

449. AKRON, OHIO, CODE OF ORDINANCES §92.03 (2011); AUSTIN, TEX., CODE OF ORDINANCES §3-2-61 (2011); PHOENIX, ARIZ., CITY CODE §8-3 (2011).

450. CHESAPEAKE, VA., CODE OF ORDINANCES §10-19 (2011).

451. CHI., ILL., CODE OF ORDINANCES §17-12-300 (2011) (but exempting Kosher slaughtering from this ordinance).

452. WICHITA, KAN., CODE OF ORDINANCES §6.04.175(p) (2011).

453. L.A., CAL., MUN. CODE §53.67 (2011).

454. BUFFALO, N.Y., CITY CODE §341-11.1(d) (2009); COLORADO SPRINGS, COLO., CITY CODE §6.7.110(A) (2011); FORT WAYNE, IND., CODE OF ORDINANCES ch. 157 (2011); FRESNO, CAL., MUN. CODE §§12-204.11 & 12-205.1 & 12-206.1 (2011); GARLAND, TEX., CODE OF ORDINANCES §22.14 (2011); LAS VEGAS, NEV., MUN. CODE §7.38.050(a)(2) (2011); LINCOLN, NEB., MUN. CODE §6.04.041 (2011); LONG BEACH, CAL., MUN. CODE §6.20.050 (2011); MIAMI, FLA., CODE OF ORDINANCES §6-1(b)(2) (2011); MADISON, WIS., CODE OF ORDINANCES ch. 28 (no date listed); MILWAUKEE, WIS., CODE OF ORDINANCES §78-6.5(3)(a) (2011); N.Y.C., HEALTH CODE §§161.19(a) & 161.01(b)(11) (1990); NEWARK, N.J., GENERAL ORDINANCES §6:2-36 (2010); OAKLAND, CAL., CODE OF ORDINANCES §6.04.320 (2011); PHOENIX, ARIZ., CITY CODE §8-7(c) (2011); PORTLAND, OR., CITY CODE §13.10.010 (2011); ROCHESTER, N.Y., CITY ORDINANCES §30-19 (no date listed); SACRAMENTO, CAL., CITY CODE §9.44.860(B) (2011); ST. PAUL, MINN., §198.03 (2011); ST. PETERSBURG, FLA., CODE OF ORDINANCES §4-31(e) (2011); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.820 (2007); SANTA ANA, CAL., CODE OF ORDINANCES §5-6.5 (2011); SEATTLE, WASH., MUN. CODE §23.42.052(c)(2) (2011); STOCKTON, CAL., MUN. CODE §6.04.440 (2011); TUCSON, ARIZ., CODE OF ORDINANCES §4-59 (2011); WICHITA, KAN., CODE OF ORDINANCES §6.04.171 (2011).

455. PHOENIX, ARIZ., CITY CODE §8-7(c) (2011). Removing a roosters vocal chords was routinely done by vets many years ago. But because of the extremely high mortality rate (over 50%) most vets will no longer perform this procedure. See *Small and Backyard Flocks*, Ky. U. EXT., <http://www.ca.uky.edu/smallflocks/faq.html#Q31> (last visited July 8, 2012).

456. ROCHESTER, N.Y., CITY ORDINANCES §30-19 (no date listed); SAN JOSE, CAL., CODE OF ORDINANCES §7.60.820 (2007).

457. SACRAMENTO, CAL., CITY CODE §9.44.860(B) (2011).

458. FORT WAYNE, IND., CODE OF ORDINANCES ch. 157 (2011).

459. CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(c) (2011).

460. KANSAS CITY, MO., CODE OF ORDINANCES §14-15(f) (2011).

461. OKLAHOMA CITY, OKLA., MUN. CODE §59-9350(c), (d) (2011).

462. GLENDALE, ARIZ., CODE OF ORDINANCES pt. II, art. 5 (2010) (multiple provisions in zoning code relating to roosters).

463. WICHITA, KAN., CODE OF ORDINANCES §6.04.171 (2011).

acreage for roosters: Cleveland requires at least one acre<sup>464</sup>; Baton Rouge requires two acres<sup>465</sup>; and Fremont California allows one rooster for ½ acre, and two roosters for more than one acre.<sup>466</sup> Three cities, Anaheim, Arlington, and Dallas, relegate roosters to agriculturally zoned land.<sup>467</sup>

Many cities do not ban roosters but have noise regulations that would effectively cause any rooster to be a nuisance, at least a rooster that crows.<sup>468</sup>

Finally, nine cities expressly allow for roosters.<sup>469</sup> Most of these cities, however, limit the number of roosters allowed. Three cities allow for only one rooster.<sup>470</sup> Two cities allow for two roosters.<sup>471</sup> El Paso allows for up to three roosters with a permit.<sup>472</sup> And Riverside allows up to six and only requires a permit to keep seven or more roosters.<sup>473</sup> San Diego and San Francisco allow for unlimited roosters; however, San Francisco animal control authorities stated that they do not recommend that San Franciscans keep roosters due to the number of complaints they have received concerning roosters.<sup>474</sup>

And, winning the award for most eccentric rooster ordinance is the city that allows roosters conjugal visits. While this city is not within the top 100 surveyed, Hopewell Township, New Jersey, as discussed above, allows roosters that are certified disease-free to visit a hen flock for 10 days out of every year.<sup>475</sup>

464. CLEVELAND, OHIO, CODIFIED ORDINANCES §347.02(b)(1)(c) (2011).

465. BATON ROUGE, LA., CODE OF ORDINANCES §14-224(b) (2011).

466. FREMONT, CAL., MUN. CODE §3-5803 (2011).

467. ANAHEIM, CAL., MUN. CODE §18.38.030.050 (2011); ARLINGTON, TEX., ORDINANCES GOVERNING ANIMALS §5.02(f) (2010); DALLAS, TEX., CODE OF ORDINANCES §7-7.3 (2011).

468. *E.g.*, ANCHORAGE, ALASKA, CODE OF ORDINANCES §17.10.015 (2011); BAKERSFIELD, CAL., MUN. CODE §6.04.230 (2011); COLUMBUS, OHIO, CITY CODE §2327.14(A) (2011) (“No person shall keep or harbor any animal which howls, barks, or emits audible sounds that are unreasonably loud or disturbing and which are of such character, intensity and duration as to disturb the peace and quiet of the neighborhood or to be detrimental to life and health of any individual.”); CORPUS CHRISTI, TEX., CODE OF ORDINANCES §31-2 (2011); GREENSBORO, N.C., CODE OF ORDINANCES §30-8-11.3(B) (2011) (“No poultry animals that make sounds clearly audible off-site are permitted.”); LEXINGTON-FAYETTE, KY., CODE OF ORDINANCES §4-12 (2011); NASHVILLE-DAVIDSON, TENN., MUN. CODE §8.12.010 (2011) (“It is unlawful for any person to keep any animal, dog, bird or fowl which, by causing frequent or loud continued noise, disturbs the comfort or repose of any person in the vicinity.”); RALEIGH, N.C., CODE OF ORDINANCES §12-5007 (2011); ST. LOUIS, MO., CODE OF ORDINANCES §15.50.040 (2010).

469. ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-4-3 (2011); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007); EL PASO, TEX., MUN. CODE §7.24.020(B)(1) (2011); FORT WORTH, TEX., CODE OF ORDINANCES §11A-22(c)(2) (2011); L.A., CAL., MUN. CODE §53.71 (2011); LOUISVILLE, KY., METRO CODE §91.001 (2011); RIVERSIDE, CAL., CODE OF ORDINANCES §6.05.010 (2011); SAN DIEGO, CAL., MUN. CODE §42.0708 (2011); SAN FRANCISCO, CAL., HEALTH CODE §37 (2011).

470. ALBUQUERQUE, N.M., CODE OF ORDINANCES §9-2-4-3 (2011); L.A., CAL., MUN. CODE §53.71 (2011); LOUISVILLE, KY., METRO CODE §91.001 (2011).

471. FORT WORTH, TEX., CODE OF ORDINANCES §11A-22(c)(2) (2011); BIRMINGHAM, ALA., ZONING ORDINANCE §2.4.1 (2007).

472. EL PASO, TEX., MUN. CODE §7.24.020(B)(1) (2011).

473. RIVERSIDE, CAL., CODE OF ORDINANCES §§6.05.010 & 6.05.020 (2011).

474. SAN DIEGO, CAL., MUN. CODE §42.0708 (2011); SAN FRANCISCO, CAL., HEALTH CODE §37 (2011); Interview with San Francisco animal control (on file with author).

475. *NJ Town Limits Conjugal Visits Between Roosters & Hens*, HUFFINGTON POST, Apr. 27, 2011, [http://www.huffingtonpost.com/2011/04/28/nj-limits-chicken-mating\\_n\\_854404.html](http://www.huffingtonpost.com/2011/04/28/nj-limits-chicken-mating_n_854404.html) (last visited July 8, 2012).

## V. Model Ordinance

### A. *Reasons Behind the Choices in the Model Ordinance*

Because many cities are recognizing that keeping chickens in the city should be allowed, but would like to regulate it properly so that the city can stop any nuisances before they arise, a model ordinance is provided below. Through surveying the ordinances of the most populous American cities, many types of regulatory schemes have already been identified and discussed. While different regulatory schemes may work better for different kinds of cities, depending on the density and variety of their residential, commercial, and industrial neighborhoods, the model ordinance provided should be easy to adapt to any city. First, each section of the model ordinance will be described and the reasons for choosing the regulation will be set out. Then, the model ordinance will be set out in full.

#### 1. Chickens Should Be Regulated in a Unified Ordinance Within the Section Concerning Animals

Most cities regulate chickens within the animal code. This also appears to be the best option for where to place regulations affecting chickens within a city's codified ordinances. This is the natural place for a person to look to see if the city allows chickens. By placing the regulation within the animal code, it also allows for all of the regulations affecting chickens to be in one place. This will help a chicken owner to more easily find and follow the city's law.

If a city still wishes to incorporate zoning restrictions within a chicken ordinance, the city can easily do so within the unified ordinance located within the animal section by restricting chickens to certain zones. And if a city wishes to require a permit to keep chickens, the permit requirement may also easily be placed in a unified ordinance.

#### 2. Chickens Should Be Limited to a Small Flock

A chicken ordinance should allow for at least four chickens. Because chickens are flock animals, they do not thrive when left alone. And, because chickens enforce a dominant social order by harassing new chicks, it is always best to introduce at least two chicks to a new flock. By allowing a minimum of four chickens, the city does not leave a chicken owner in a position of having to leave a hen in a solitary environment if another chicken dies. It also allows the chicken owner to introduce at least two new chicks to an existing flock of two.

The model ordinance sets out a maximum of six chickens. This number is still below the average number of chickens allowed in most cities, but is sufficient to keep a balanced backyard flock. Six hens will allow plenty of eggs for the hen-keepers, while still allowing an owner to keep



hens that no longer produce many eggs but are still valued by the owner for their companionship.

Cities may want to consider allowing even more chickens. Allowing more chickens will allow owners to keep chickens that are no longer producing eggs. Chicken owners who raise hens for eggs may feel pressured to rid themselves of older hens when they are faced with limitations on their flock.<sup>476</sup> This has raised concerns in some areas that those chickens will burden animal shelters.<sup>477</sup> Allowing a slightly larger flock may help to alleviate any burden.

### 3. Lot Size Should Not Be Restricted

The majority of cities do not require a specific lot size before a person can keep chickens. Lot size restrictions, moreover, often do little more than prohibit the majority of city residents from keeping hens. The concern that cities are mainly addressing through lot size, that of making sure that chickens are not located too close to neighbors, can better be addressed through setbacks.

For this reason, the model ordinance does not restrict through lot size. If a city has a wide variety of lot sizes, however, a city may wish to allow more hens for larger lot sizes. The city, for instance, can legislate a maximum number of chickens for lot sizes of ½ acre or below, and then increase the number of chickens for larger lot sizes.

### 4. Setbacks

Because there is a universal concern with keeping chickens too close to neighbors, a setback, rather than lot size, provides the best solution for this concern. A setback actually ensures that the chickens will be kept at an appropriate distance from neighbors without unduly restricting people who own smaller properties from owning chickens. The model ordinance proposes a setback of 25 feet from the doors or windows of any dwelling or occupied structure other than the owner's dwelling. This setback is less than the median setback of 80 feet and the most popular setback of 50 feet, but is in line with the setbacks of many cities that have recently amended their ordinances. A setback of 25 feet is far enough that any noise or odor from the hens should not cause nuisance to the neighbors, while allowing homeowners in smaller properties to keep hens. The addition of requiring the setback to be from doors or windows also allows more flexibility for where a coop can be placed, while still ensuring that it will not annoy neighbors.

Setbacks from a neighboring residence make sense because it can be assumed that no one wants someone keeping any pet, including chickens, very close to their house. A setback from the property line, however, may make less sense depending on where on the property chickens are kept. While a neighbor may be concerned that his neigh-

bor does not build a coop abutting his property that is also right next to a frequently used patio or deck, these sorts of setbacks may also overreach. For instance, these setbacks may require a coop to be located far from a little-used or overgrown part of a neighbor's property. It may also require the coop to be located far from an area of the neighbor's property where a garage or shed already provides a barrier. For these reasons, setbacks from property lines should be employed with care. But, it is understandable that a neighbor would not want a coop built directly next to a frequently used area of the yard, nor does a neighbor want to be responsible for cleaning errant droppings. For this reason, the model ordinance proposes minimal setbacks from property lines along the lines of the newly passed ordinances in Cleveland and Buffalo, of five feet from the side yard and 18 inches from the rear yard line.

Finally, the model ordinance provides that chickens may not be kept in the front yard. Because most cities are justifiably concerned that easily accessible chickens will attract vandalism, theft, or pranks, or possibly cause neighborhood dogs to behave in a predatory manner, instead of setting elaborate setbacks from the street, it is more efficient and more clear to simply ban chickens from the front yard.

### 5. Sanitation Requirements

The model ordinance requires that the coop and outdoor enclosure be kept in a sanitary condition and free from offensive odors. It also requires that the coop and outdoor enclosure be cleaned on a regular basis to prevent the accumulation of animal waste. The model ordinance does not go into further detail because more stringent cleaning requirements will be difficult to police and impossible to enforce. A city inspector will be able to tell if a coop is clean and odor-free when inspecting the coop. Unless the city inspector monitors a coop closely with daily visits, the inspector will be unable to tell if an owner cleaned it daily, or every other day, or weekly. It is unlikely that any city inspector would want to devote that much time to surveillance of chicken coops.

Also, because there are several different methods for cleaning a coop, and there continue to be new innovations in chicken-keeping and maintenance (witness the evolution of cat litter over the past few decades), legislating one particular method of cleaning might foreclose more efficient, more sanitary, and more attractive cleaning options. The city's concern is with sanitation and odor. Thus, the city should address its regulations to these concerns, rather than to more specific cleaning methods.

Concerns with flies will also be taken care of through requiring clean and odor-free coops and enclosures. As flies are attracted to waste, any problem with flies should be eliminated through requiring a sanitary coop. Rats are attracted to easily procured food. If the city is particularly concerned with rats, it may add that chicken feed be kept in a rat-proof container. But this regulation appears

476. E.g., Kim Severson, *When the Problems Come Home to Roost*, N.Y. TIMES, Oct. 22, 2009, <http://www.nytimes.com/2009/10/23/dining/23sfdine.html>.

477. *Id.*

unnecessary in light of the fact that many people keep dog and cat food in bulk, as well as food for their own consumption, without regulations that the food be kept in a rat-proof container. There is no logical basis for the belief that rats will be more attracted to chicken feed than other food. If a city is concerned that feed scattered on the ground will attract rats, instead of legislating a rat-proof container for keeping the feed, a city may be better off following Buffalo's lead by prohibiting feed from being scattered on the ground and requiring chickens to be fed from a trough.

## 6. Enclosures

The model ordinance provides specific requirements for coops and outdoor runs. It also requires that hens should remain in the coop or outdoor run at all times, except when an adult is directly supervising the hen.

First, the model ordinance requires a covered, predator-proof coop or cage that is well-ventilated and designed to be easily accessed for cleaning. It also requires that the coop provide at least two square feet per hen. Finally, it requires that the birds have access to an outdoor run that is adequately fenced to contain the birds on the property and prevent predators from access to the birds. This ordinance is designed to address the city's concerns with odor, with the chicken's well-being, and with not attracting predators looking for an easy meal. The ordinance allows for only two square feet per hen to give each hen adequate space, but also to allow for a smaller coop size that can help to keep birds warm in the winter. The ordinance avoids giving too many instructions on building a coop that could preclude future innovations in coop design.<sup>478</sup> If the city, however, wants to prohibit coops over a specific dimension, or will waive a building permit for coops under a specific dimension that are not permanent structures, the city can easily insert such a provision here.

The model ordinance also provides that chickens should not be allowed out of their coops, except when supervised by an adult. This addresses a city's concern with chickens running free on the streets while also recognizing that owners will need to remove hens from the coop and run occasionally to clean the areas, to inspect a bird more closely, or to allow a chicken to briefly roam the yard or garden to forage for fresh greens.

## 7. Slaughtering

The model ordinance prohibits slaughtering chickens outdoors. Because many people are concerned that neighbors or neighbors' children will accidentally witness a bird being killed and are also concerned with the lack of hygiene in backyard butchering, this regulation is included in the ordinance. Also, because most backyard hen enthusiasts are raising hens for eggs and companionship, and not for meat, most will not object to this regulation.

## 8. Roosters

The model ordinance prohibits roosters. It does so because roosters are noisy and are much more likely to bother neighbors than hens. Because, as discussed above, most backyard hen enthusiasts are interested in eggs, and roosters are not necessary to egg production, prohibiting roosters will not likely meet with much objection.

Because bringing in a rooster on occasion can help to cheaply and easily propagate a flock, cities may explore rooster "conjugal visits," like Hopewell township has done. While the township's regulation attracted press because of its eccentricity, it was a thoughtful solution to the practical effects of banning roosters. Most hen owners, however, are willing to add to their flocks through other means where they can be better assured of procuring only female fowl.

## 9. Permits

The model ordinance, following the ordinances of many other cities, does not require a permit, as long as the ordinance is followed. Because chickens are novel to many communities, city officials naturally want to closely monitor how well owners are maintaining their flocks. But, regulating through a permitting or licensing process, dedicating a city official to overseeing it, and maintaining the records that such a process will require appears to be an inefficient use of city resources. It is also expensive for owners to pay permitting fees on an annual basis and is a barrier to entry to keeping chickens to those with low or modest incomes. The fees that some cities charge, over \$50 annually, effectively prohibit poorer people from owning chickens.

The permitting process, moreover, does not necessarily give the city more control. If the city prohibits hens unless its ordinance is followed, it can enforce its laws in the same way that it enforces its laws against errant dog, cat, or bird owners. Requiring a permit, thus, appears to provide an unnecessary, inefficient, and expensive layer to the process of legalizing hens.

The model ordinance does require a permit, however, if the chicken owner puts forth a proposal for why she should not have to comply with the city's regulations—for instance if the owner wishes to keep more than the maximum amount of hens, wishes to keep hens in a multi-family dwelling, wishes to keep hens on a parcel of land that is unconnected to a dwelling, or wishes to keep a rooster.

478. Many companies sell commercially made coops, runs, and chicken tractors (portable enclosed structures that allow the owner to move the chickens around the yard) with novel designs. See, e.g., *Say Hello to the Brand New Eglu Go*, OMLET, [http://www.omlet.us/products\\_services/products\\_services.php?cat=Eglu+Go](http://www.omlet.us/products_services/products_services.php?cat=Eglu+Go) (last visited July 25, 2012) (offering a plastic portable chicken coop and run designed for two chickens); *Chicken Coops*, SHEDS UNLIMITED, <http://www.shedsunlimited.net/portable-chicken-runs-and-coops-for-sale.html?gclid=CKXzvd2ruLECFEDQAodeCIAkw> (last visited July 25, 2012) (offering Amish-built chicken coops and runs); CHICKENSALOON.COM, <http://chickensaloon.com/?gclid=COLs7qysuLECFYS6KgodGBAAsw> (last visited July 25, 2012); THE GREEN CHICKEN COOP, <http://www.greenchickencoop.com/> (last visited July 25, 2012).

This permit is set up to allow people to keep chickens within setbacks, or to allow for more intensive chicken-keeping for urban agricultural uses, perhaps on an urban farm or market garden. As urban agriculture gains support and becomes more prevalent in the city, this will allow for people who wish to keep more chickens, or keep a rooster, as part of a market garden a set path for doing so without seeking to amend the ordinance. The permit process is designed to allow for more flexibility within the ordinance, while still laying down firm standards that all chicken owners must follow.

## B. *Model Ordinance*

Below is a model ordinance designed for a city to either adopt or use as a starting point when deciding whether to allow hens in the city and how to regulate them:

(a) **Purpose.** The following regulations will govern the keeping of chickens and are designed to prevent nuisances and prevent conditions that are unsanitary or unsafe. No person shall keep chickens unless the following regulations are followed:

- a. **Number.** No more than six (6) hens shall be allowed for each single-family dwelling.
- b. **Setbacks.** Coops or cages housing chickens shall be kept at least twenty-five (25) feet from the door or window of any dwelling or occupied structure other than the owner's dwelling. Coops and cages shall not be located within five (5) feet of a side-yard lot line, nor within eighteen (18) inches of a rear-yard lot line. Coops and cages shall not be located in the front yard.
- c. **Enclosure.** Hens shall be provided with a covered, predator-proof coop or cage that is well-ventilated and designed to be easily accessed for cleaning. The coop shall allow at least two square feet per hen. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property and to prevent predators from access to the birds. Hens shall not be allowed out of these enclosures unless a responsible individual, over 18 years of age, is directly monitoring the hens and able to immediately return the hens to the cage or coop if necessary.
- d. **Sanitation.** The coop and outdoor enclosure must be kept in a sanitary condition and free from offensive odors. The coop and outdoor enclosure must be cleaned on a regular basis to prevent the accumulation of waste.
- e. **Slaughtering.** There shall be no outdoor slaughtering of chickens.
- f. **Roosters.** It is unlawful for any person to keep roosters.

(b) **Permit.** A permit shall not be required if the above regulations are followed. If a person wishes to keep more than the maximum allowed number of hens, wishes to keep hens within the setback required, wishes to keep hens in a multi-family dwelling, wishes to keep hens on a parcel of land that is unconnected to a dwelling, or wishes to keep a rooster, a permit will be required. An application for a permit must contain the following items:

- a. The name, phone number, and address of the applicant.
- b. The size and location of the subject property.
- c. A proposal containing the following information.
  - i. The number of hens the applicant seeks to keep on the property.
  - ii. A description of any coops or cages or outdoor enclosures providing precise dimensions and the precise location of these enclosures in relation to property lines and adjacent properties.
  - iii. The number of roosters the applicant seeks to keep on the property.
- d. If the applicant proposes to keep chickens in the yard of a multi-family dwelling, the applicant must present a signed statement from any and all owners or tenants of the multi-family dwelling consenting to the applicant's proposal for keeping chickens on the premises.
- e. If the applicant proposes to keep more chickens than allowed in the above ordinance or wishes to keep a rooster, the applicant must present a signed statement from all residents of property adjacent to or within 50 feet of the applicant's property consenting to the applicant's proposal for keeping chickens on the premises. If the applicant proposes to keep chickens within a required setback, the applicant must present a signed statement from all residents of the property affected by that setback.

(c) **Permit Renewal.** Permits will be granted on an annual basis. If the city receives no complaints regarding the permit holder's keeping of chickens, the permit will be presumptively renewed and the applicant may continue to keep chickens under the terms and condition of the initial permit. The city may revoke the permit at any time if the permittee does not follow the terms of the permit, if the city receives complaints regarding the permit holder's keeping of chickens, or the city finds that the permit holder has not maintained the chickens, coops, or outdoor enclosures in a clean and sanitary condition.



## **Legal Studies Research Paper Series**

### **Feeding the Locavores, One Chicken at a Time: Regulating Backyard Chickens**

*Zoning and Planning Law Report, Vol. 34, No. 3, p. 1, March 2011*

**Patricia Salkin**  
*Dean and Professor of Law*

Copyright © 2009. Posted with permission of the author.

# ZONING AND PLANNING LAW REPORT



MARCH 2011 | Vol. 34 | No. 3

## Feeding the Locavores, One Chicken at a Time: Regulating Backyard Chickens

Patricia E. Salkin

*Patricia E. Salkin is the Raymond & Ella Smith Distinguished Professor of Law at Albany Law School, where she also serves as Associate Dean and Director of the Government Law Center. The author appreciates the research assistance of Albany Law School students Laura Bomyea ('13) and Katie Valder ('13), and the assistance of Amy Lavine, staff attorney at the Government Law Center.*

*"A nuisance may be merely a right thing in the wrong place, like a pig in the parlor instead of the barnyard."* Village of Euclid, Ohio v Ambler Realty Co., 272 U.S. 365, 388, 47 S.Ct. 114, 118 (1926).

### I. Introduction

The clucking sound of chickens, once only heard on farms across the rural countryside, is becoming more commonplace in suburban and urban backyards as locavores<sup>1</sup> search for more "green living" and a diet of fresh, locally grown and raised food.<sup>2</sup> In addition to producing eggs and meat, chickens provide the valuable service of eating garden pests and kitchen scraps.<sup>3</sup> They are relatively inexpensive, and do not need a particularly large area of space.<sup>4</sup> Some people have also started to welcome chickens into their homes and yards as domesticated pets.<sup>5</sup> Longmont, Colorado of-

fers a good illustration of the growing interest in raising backyard chickens, as the municipality has issued 72 permits to keep them, and maintains a waiting list of 100 more requests.<sup>6</sup> Hundreds of other cities across the country, including Austin, Nashville, St. Louis, Tulsa, New York, Seattle, Portland, Houston and San Francisco, as well as smaller towns and villages, have permitted the keeping of chickens in residential neighborhoods,<sup>7</sup> and changes have been proposed in other cities, including Lafayette, Colorado;<sup>8</sup> Batavia, Illinois;<sup>9</sup> Albany, New York;<sup>10</sup> and North Salt Lake, Utah.<sup>11</sup> Although some communities have welcomed backyard chickens, others have expressed overwhelming opposition.<sup>12</sup> People who criticize efforts to allow chickens in neighborhoods worry that property values will plummet,<sup>13</sup> that chickens will create foul odors and noise, and that they will attract coyotes, foxes, and other pests.<sup>14</sup> Efforts to allow chickens have recently been defeated in Springville, Utah,<sup>15</sup> and Grand



# ZONING AND PLANNING LAW REPORT

Feeding the Locavores, One Chicken at a Time: Regulating Backyard Chickens .....	1
I. Introduction .....	1
II. Federal and State Government Regulation.....	3
III. Nuisance Law and Restrictive Covenants.....	3
IV. Using Zoning and Other Local Controls to Regulate Backyard Chickens.....	4
V. Conclusion .....	7
Of Related Interest.....	12

## Editorial Director

Tim Thomas, Esq.

## Contributing Editors

Patricia E. Salkin, Esq.

Lora Lucero, Esq.

## Publishing Specialist

Robert Schantz

## Electronic Composition

Specialty Composition/Rochester Desktop Publishing

Zoning and Planning Law Report (USPS# pending) is issued monthly, except in August, 11 times per year; published and copyrighted by Thomson Reuters, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526. Application to mail at Periodical rate is pending at St. Paul, MN.

POSTMASTER: Send address changes to Zoning and Planning Law Report, 610 Opperman Drive, P.O. Box 64526, St. Paul MN 55164-0526.

© 2011 Thomson Reuters

ISSN 0161-8113

Editorial Offices: 50 Broad Street East, Rochester, NY 14694

Tel.: 585-546-5530 Fax: 585-258-3774

Customer Service: 610 Opperman Drive, Eagan, MN 55123

Tel.: 800-328-4880 Fax: 612-340-9378

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Rapids, Michigan,<sup>16</sup> and in February of this year, officials in Ludlow, Kentucky have bucked the trend as they announced efforts to amend their local laws to effectively prohibit the keeping of backyard chickens.<sup>17</sup>

*Although some communities have welcomed backyard chickens, others have expressed overwhelming opposition.*

Favoring locally grown foods, while popular today, is not new. Early settlers were self-sustaining farmers, and while the era of industrialization may have altered farming patterns, Americans tried to reclaim some self-sufficiency during both World War I and World War II, with the implementation of victory gardens.<sup>18</sup> The federal government encouraged these efforts to reduce food shortages, and by 1943 the country's 20 million victory gardens reportedly produced eight million tons of food.<sup>19</sup> Food gardens surged in popularity again in the 1960s and 1970s through the "back to the land" movement, as environmentally conscientious consumers became aware of the pesticides, fertilizers, and other potentially dangerous chemicals used for industrial agricultural production.<sup>20</sup> Economic, environmental, and philosophical issues have recently renewed the public's interest in home-based food production, community gardens, and local sourcing.<sup>21</sup> With respect to chickens, the zoning ordinance of Cherokee County, Georgia explains that "[t]he keeping of hens supports a local, sustainable food system by providing an affordable, nutritious food source of fresh eggs. The keeping of hens also provides free nitrogen-rich fertilizer; chemical-free pest control; animal companionship and pleasure; and weed control, among other notable benefits."<sup>22</sup> While it is true that the impetus for the growing backyard chicken movement is owing primarily to the local and regional foodshed movement, the internet and the newspapers boast stories and posts about urban dwellers who simply enjoy keeping chickens as pets, and others who have taken an interest in raising chickens specifically for 4-H showings and other agricultural competitions.

---

*This is no “Chicken Little” story; if chicken lovers are not present in your community today, chances are they are coming soon.*

---

## II. Federal and State Government Regulation

Although backyard chickens are primarily regulated at the local level, a number of federal and state health and food safety laws apply to egg and poultry production. For example, the United States Department of Agriculture (USDA) takes an active role in disease prevention<sup>23</sup> and regulates various aspects regarding the sale, transport and slaughter of chicken and egg products under the Poultry Products Inspection Act<sup>24</sup> and the Egg Products Inspection Act.<sup>25</sup> Although most people who own only a few birds are exempt from the regulations,<sup>26</sup> these laws still prohibit the adulteration and misbranding of poultry and egg products, regardless of exemption status.<sup>27</sup> Therefore, those who raise chickens in order to sell eggs and poultry at local farmers’ markets must comply with the federal regulations. Additionally, while the Center for Disease Control has no direct regulatory authority over backyard chicken farmers, the agency provides safety tips to prevent exposure to salmonella or campylobacter, bacteria that cause mild to severe gastrointestinal illness in humans and are associated with chickens.<sup>28</sup>

People who own chickens for personal use are often exempted from state licensing and inspection requirements as well.<sup>29</sup> However, state regulations regarding avian diseases usually apply to all chicken owners, regardless of the size of their flocks and whether the birds are kept for food or as pets.<sup>30</sup> Additionally, health and safety statutes often apply to egg sales and may cover people who own small flocks and wish to sell eggs at farmers’ markets or to local restaurants. In Texas, for example, “A vendor must obtain a permit . . . to sell yard eggs at a farmers market. The eggs must be stored at a temperature of 45° Fahrenheit or less. The egg cartons or other containers must be labeled as ‘ungraded’ and provide the producer’s . . . name and address.”<sup>31</sup> Kentucky requires retail and wholesale egg sellers to obtain a license, but exempts producers who sell directly to consumers and sell no more than 60 dozen eggs per

week.<sup>32</sup> Chicken owners in Alabama who sell eggs from their homes or farms are not required to obtain a license, but if they transport their eggs to farmers’ markets, then they must follow the Alabama Shell Egg Law.<sup>33</sup> Other states exempt small-scale egg sellers from licensing regulations and handling requirements. In Michigan, for example, the egg law does not apply to people who sell eggs of their own production directly to consumers or first receivers,<sup>34</sup> and in Oregon, “eggs may be sold at farmers’ markets or roadside stands without an egg handler’s license and without labeling.”<sup>35</sup>

Sales of poultry from small-scale producers may also be subject to health and safety regulations regarding slaughter and handling. In Michigan, poultry producers who sell fewer than 20,000 poultry per year must have their birds processed at a plant inspected by either the USDA or the state department of agriculture,<sup>36</sup> while in Oregon, all poultry must be USDA inspected and slaughtered at a USDA plant. The Oregon Department of Agriculture also licenses custom slaughter and processing operations, but these licenses do not allow retail sales and are primarily intended to allow persons to consume home-raised meat.<sup>37</sup>

Various other regulations may affect backyard chicken owners. In New York, it is illegal to keep chickens and other livestock on apartment building premises unless the use is specifically permitting by local regulations.<sup>38</sup> A similar law in Michigan prohibits the keeping of chickens on any dwelling lot, except under appropriate regulations, in cities and villages with more than 10,000 residents.<sup>39</sup> Additionally, all states prohibit or criminalize chicken fighting,<sup>40</sup> and some prohibit chicken owners from using dye to change the birds’ colors,<sup>41</sup> a practice that is apparently popular to produce multi-colored chicks for Easter.<sup>42</sup>

---

## III. Nuisance Law and Restrictive Covenants

Over the years, courts have had the opportunity to determine whether various impacts associated with the keeping of chickens can constitute a nuisance. In an early case decided in Louisiana, it was held that rooster crowing is not a nuisance per se.<sup>43</sup> The neighbor in the case cited a loss of sleep and physical discomfort caused by early morning crowing, which produced nervousness and potential

physical and mental disorders. In applying the reasonable person test, the court asked whether “such a condition . . . in the judgment of reasonable men is naturally producing of actual physical discomfort to normal persons of ordinary sensibilities and of ordinary tastes and habits,” and found that the crowing was not a nuisance, but rather a symbol of “good cheer and happiness.”<sup>44</sup> However, keeping an excessive number of chickens may be deemed a nuisance if the noise or odors would offend persons of ordinary sensibility.<sup>45</sup> Where neighbors were inundated by noise from a rooster farm, an Ohio appeals court remarked that the noise—which disrupted the plaintiffs’ sleep, forced them to keep their windows sealed at all times, and prevented them from inviting guests to their home—could be distinguished from “typical sounds of the country[.]”<sup>46</sup> The court concluded that the amount of noise created by the roosters was greater than that which is reasonably anticipated in the countryside and ordered the defendants to keep less than six roosters.<sup>47</sup>

---

*Even a small number of chickens or roosters may be considered a nuisance, depending on the character of the neighborhood and the amount of noise they produce.*

---

Even a small number of chickens or roosters may be considered a nuisance, depending on the character of the neighborhood and the amount of noise they produce. St. Louis, Missouri, has designated the keeping of more than four chickens within city limits a public nuisance.<sup>48</sup> Roosters are especially likely to create nuisances. In a Minnesota case, a woman living in St. Paul was convicted for keeping a rooster in her house without the requisite municipal permit. The court found that the health officer was justified in denying her permit request and upheld the conviction, as the numerous complaints from neighbors regarding the bird’s frequent crowing at inconvenient hours demonstrated that it was a nuisance.<sup>49</sup> The same woman was cited again several years later for keeping her rooster in a St. Paul suburb. The ordinance under which she was charged prohibited the “raising or handling of livestock or animals causing a nuisance,” but the court reversed her conviction because it determined that a rooster was not livestock.<sup>50</sup> In a Hawaii case, the court reversed on pro-

cedural grounds three convictions sustained by the defendant for keeping a rooster in violation of an animal nuisance ordinance.<sup>51</sup>

Because chickens tend to create odors and noise, even if these do not rise to the level of a nuisance, the keeping of chickens is often prohibited by restrictive covenants and homeowners’ associations. In one case, homeowners who raised chickens on their property were found to be in violation of covenants prohibiting poultry and poultry houses. Because the covenant clearly prohibited “poultry of any kind,” the court rejected the homeowners’ contention that their birds were “pets” and not “poultry.”<sup>52</sup> In a similar case, it was explained that “the clear intent expressed in the covenants as a whole is to create a desirable, pleasant residential area. It is clear that the exception as to pets was intended to limit the ownership of animals upon the property to that normally associated with residential, family living. We do not consider it in character with a planned residential community for a person to maintain a flock of 21 assorted poultry on his property.”<sup>53</sup> The city of Homewood, Alabama recently amended its code to provide, “It shall be unlawful for any person to keep, harbor, or possess any chicken, duck, goose, turkey, guineas or other fowl within the city, except . . . [u]nder circumstances where no noise, odor, or pollution violation or nuisance is occasioned thereby,”<sup>54</sup> perhaps leaving it open to interpretation as to what exactly would constitute a nuisance with backyard chickens.

---

#### IV. Using Zoning and Other Local Controls to Regulate Backyard Chickens

State and federal statutes regulating chicken raising focus mainly on food safety and disease prevention, leaving local governments the ability to regulate the location and intensity of residential chicken raising, as well as the physical aspects of chicken coops. Many communities across the country have enacted zoning and land use measures to effectively balance the desire to maintain small numbers of poultry for food or pets against concerns relating to noise and odors. Some of the common issues covered by local ordinances include limits on the number of birds, setbacks for coops and pens, requirements for neighbor consent, restrictions against roosters, requirements for proper feed storage, and pest control provisions.

Structures constructed for the housing of chickens, such as coops or fences, are also subject to zoning rules pertaining to cage size, height, and materials. Local laws may also include requirements for inspections by code enforcement officers, especially in the event of a complaint, as well as penalties for violations.

---

*Because of their noisy habits, roosters are prohibited under many residential chicken laws.*

---

Because of their noisy habits, roosters are prohibited under some residential chicken laws.<sup>55</sup> In Stamford, Connecticut, residents may keep roosters, but only so long as their crowing is not “annoying to any person occupying premises in the vicinity.” It is clear that local ordinances vary widely in approach to meet the particular challenges of a given community. What follows are examples of specific existing local approaches to regulating urban chickens.

#### A. Permits

It is not uncommon for municipalities to regulate residential chicken raising through licensing and permitting laws. An ordinance in Ann Arbor, Michigan, allows residents to apply for a permit to keep up to four “backyard chickens.” The permit costs \$20 and requires proof of consent by adjacent neighbors.<sup>56</sup> Similarly, residents of Charlotte, North Carolina, may apply for a permit to have “chickens, turkeys, ducks, guineas, geese, pheasants, pigeons or other domestic fowl[.]” Before a permit may be issued, a city employee must inspect the premises and determine that keeping the desired fowl will not “endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance to nearby residents or occupants or places of business.”<sup>57</sup> In Knoxville, Tennessee, city residents may apply for an annual permit to keep up to six hens on their property. They must also obtain a building permit for any hen-house or chicken pen.<sup>58</sup> In Salem, Oregon, residents are required to obtain a license, valid for up to three years, at a cost of \$50 per year.<sup>59</sup> The City of Adair Village, Oregon, which charges \$10 for a permit, requires applicants to initial on the application that the space intended to house backyard chickens is currently in accordance with sight-obscuring fence and

setback requirements, and that the chicken coop and fenced chicken area enclosure is in accordance with the square footage size and sanitation maintenance standards associated with backyard chickens. Applicants also have to acknowledge the requirement that chickens must be shut into their coops from sunset to sunrise, and otherwise remain protected from natural predators, and they must attest to having read the backyard chicken information sheet provided by the city.<sup>60</sup>

#### B. Neighbor Consent

A number of municipalities require consent of neighbors before permits will be issued for backyard chickens. For example, in Ann Arbor, Michigan, neighbors are asked to complete the Adjacent Neighbor Consent Form, and “[n]o permit shall be issued . . . and no chickens shall be allowed to be kept unless the owners of all residentially zoned adjacent properties . . . consent in writing to the permit.”<sup>61</sup> Similar consent requirements have been enacted in Brainerd, Minnesota.<sup>62</sup> In Mankato, Minnesota, consent is required not only from abutting owners, but also from three-fourths of the residents living within 300 feet of the proposed chicken coop.<sup>63</sup> Under the regulations enacted in Durham, North Carolina, a neighbor’s objection can warrant an administrative review.<sup>64</sup> And in Longmont, Colorado, nonconforming coops located six feet from the property line must obtain the neighbors’ approval. Longmont also requires neighbors’ consent for free-ranging chickens.<sup>65</sup>

#### C. Keeping Chickens for Personal Use

Backyard chicken ordinances often limit residents to keeping chickens for personal use, and prohibit them from selling eggs or poultry on-site. For example, the zoning regulation in Portland, Maine, provides that its purpose is “to enable residents to keep a small number of female chickens on a non-commercial basis while creating standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.”<sup>66</sup> In San Francisco, residents are also prohibited from raising or breeding chickens for commercial purposes, and chicken operations that qualify as commercial are subject to different regulations.<sup>67</sup> In addition to al-



lowing up to seven backyard chickens for personal egg consumption, Houston allows residents to keep show chickens intended purely for public exhibition.<sup>68</sup> In Windsor Heights, Iowa, no more than two chickens are allowed and they must be kept in a pen or coop at all times.<sup>69</sup>

#### D. Backyard Chickens Permitted as Accessory Uses

In Larimer County, Colorado, up to six backyard chickens are permitted as a residential accessory use. They must be provided with appropriate shelter and have access to a fenced outdoor enclosure no larger than 120 square feet.<sup>70</sup> Seattle, Washington also allows chickens in residential districts as accessory uses.<sup>71</sup> If chickens are not specifically permitted in a residential district, a homeowner can also try to receive approval for them as an accessory use.<sup>72</sup> This tactic has been successful in some cases involving farm animals and agricultural structures,<sup>73</sup> but the courts have not tended to accept chickens as residential accessory uses.<sup>74</sup> As backyard chickens become more commonplace, however, they may be more likely to be treated as a use customarily found in connection with residential uses.

#### E. Minimum Lot Size and Setback Requirements

Rather than setting a limit on the number of chickens allowed, a number of municipalities set minimum lot size and setback requirements for keeping chickens in the backyard. This approach can serve a number of purposes: it can bar chickens from particularly dense neighborhoods, prevent residents from keeping large flocks, and ensure that chickens have enough space to live comfortably. However, if such requirements are too restrictive, they may create obstacles to chicken raising in neighborhoods otherwise suited for that use. The 150-foot setback required in Concord, New Hampshire, for example, effectively limits backyard chicken raising to single-family homes on large lots.<sup>75</sup> Minimum lot size requirements for chickens vary. In Grand Rapids, Minnesota, only one chicken is permitted per 2,500 square feet of lot size,<sup>76</sup> while in Pima County, Arizona, 24 chickens may be kept per 8,000 square feet of lot space in single-family zones.<sup>77</sup> In Hayden, Idaho, up to ten chickens “may be kept on premises containing a minimum of three-fourths (3/4) acre of securely

fenced, irrigated open space, exclusive of a homesite, and containing at least one acre in total[.]”<sup>78</sup>

Setbacks also vary. Little Rock, Arkansas has a 25-foot setback requirement,<sup>79</sup> while Topeka, Kansas,<sup>80</sup> and Stamford, Connecticut,<sup>81</sup> have 50-foot setback requirements. Setbacks are often measured from other residential uses or districts, or uses that could be sensitive to nearby chickens. In Sacramento, for example, a chicken coop may not be located “nearer than seventy-five (75) feet to any building or structure on adjacent property used for dwelling purposes, food preparation, food service, school, hotel or as a place of public assembly.”<sup>82</sup> In Lenexa, Kansas, chickens are subject to minimum lot size requirements and coops must also be set back at least 100 feet from any adjacent building (except the owner’s), 100 feet from any front lot line, and 25 feet from any side or rear lot line.<sup>83</sup> Chicken coops in Atlanta, in addition to being set back at least 50 feet from any neighboring residence or business, must also be set back at least five feet from the owner’s residence.<sup>84</sup>

#### F. Chicken Coop Design, Site Placement, Materials and Maintenance

Local laws permitting backyard chickens often regulate the size, height, and site placement of chicken coops and pens, as well as requiring them to be adequately cleaned and safeguarded from predators. For example, the city of Knoxville, Tennessee, requires that hens be kept inside a fenced enclosure at all times during the day and secured inside a coop during non-daylight hours. If the fenced enclosure is not covered, then it must be at least 42 inches high and the hens’ wings must be clipped. A building permit is required for construction of a coop, which must be made of uniform materials, have a roof and doors that can be tightly secured, be properly ventilated, and have adequate sunlight.<sup>85</sup> In Atlanta, Georgia, chicken coops must have solid floors made out of cement or another washable material, unless the enclosure is more than 75 feet away from the nearest neighbor’s residence or business.<sup>86</sup> The size of coops and fenced enclosures is often determined by the number of hens kept in the flock. In Knoxville<sup>87</sup> and Atlanta,<sup>88</sup> coops must give each chicken at least two square feet of space. Mobile, Alabama, requires four feet of space per chicken in chicken houses,<sup>89</sup>

while at least six square feet of space per chicken is required in Concord, New Hampshire coops.<sup>90</sup>

Maintenance laws are also common. In Baton Rouge, for example, “[a]ll enclosures shall be cleaned regularly to prevent an accumulation of food, fecal matter, or nesting material from creating a nuisance or unsanitary condition due to odor, vermin, debris, or decay.”<sup>91</sup> The New York City Health Code requires coops to be “whitewashed or otherwise treated in a manner approved by the Department at least once a year . . . in order to keep them clean.”<sup>92</sup>

### G. Special Use Permits

Some communities allow for the keeping of urban chickens subject to a special use permit. This permits the municipality to assess the particular impacts of a given application on the character of the neighborhood. The zoning ordinance for Overland Park, Kansas requires that people wishing to keep chickens on less than three acres must apply for a special use permit.<sup>93</sup> Recently, in Jamestown, New York, the zoning board of appeals approved a special use permit based on the following conditions and restrictions: No more than ten hens would be housed on the property at any one time; no roosters would be housed on the property; a fence would be placed around the border on the property line; no slaughtering of chickens would be permitted; chickens would be in the coops from approximately dusk to dawn; and no storage of chicken manure would occur within 20 feet of the property line.<sup>94</sup> The permit was granted for one year, at the end of which time the property owners would be required to appear before the board for review and potential renewal of the permit.<sup>95</sup> In Leadville, Colorado, the Council recently issued a conditional use permit for the keeping of six chickens on residential property with the following conditions imposed: the special use shall not run with the land, but will sunset when the applicant no longer occupies the premises; that fresh water will be available for the chickens at all times; and that all representations made by the applicant and relied upon by the Planning and Zoning Commission and/or the City Council in evaluating the Conditional Use Permit shall be deemed a part of the application and binding upon the applicant.<sup>96</sup>

### H. Slaughter

Abattoirs and slaughtering are restricted or prohibited in many cities, and they may also be subject to federal and state regulations, as discussed above. Some cities, such as Rogers, Arkansas,<sup>97</sup> and Buffalo, New York,<sup>98</sup> prohibit slaughtering outside. Madison, Wisconsin,<sup>99</sup> and Knoxville, Tennessee,<sup>100</sup> prohibits chicken slaughtering in residential districts, while Chicago allows slaughtering only by licensed slaughtering establishments.<sup>101</sup> In San Francisco, slaughtering must be carried out in a separate room, away from any chickens.<sup>102</sup> Most of the ordinances and zoning provisions addressing the slaughtering of chickens apply to larger commercial operations, and ordinances relating to urban chickens are quiet on this matter.

## V. Conclusion

The bottom line is that this is no “Chicken Little” story, and if chicken lovers are not present in your community today, chances are they are coming soon. In addition to significant websites and blogs<sup>103</sup> that boast thousands of active members and readers, a quick search on Amazon.com reveals dozens of books about how to raise urban and backyard chickens, and magazines are on the market catering to this growing interest. Municipalities would be wise to proactively address these issues now, by reviewing the experience in other communities and by studying the various methods for most effectively regulating the keeping of hens and roosters in non-rural residential neighborhoods.

## NOTES

1. “Locavore” was chosen as the Oxford American Dictionary’s 2007 word of the year. As the dictionary explained, “The ‘locavore’ movement encourages consumers to buy from farmers’ markets or even grow or pick their own food, arguing that fresh, local products are more nutritious and taste better. Locavores also shun supermarket offerings as an environmentally friendly measure, since shipping food over long distances often requires more fuel for transportation.” Oxford University Press Blog, Oxford Word of The Year: Locavore, Nov. 12, 2007, <http://blog.oup.com/2007/11/locavore/> (visited February 2011).
2. See, e.g., Adrian Higgins, Hot Chicks: Legal or Not, Chickens Are the Chic New Backyard Addition, The

- Washington Post, May 14, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/13/AR2009051301051.html> (visited February 2011); William Neuman, Keeping Their Eggs in Their Backyard Nests, *The New York Times*, Aug. 3, 2009, available at: [http://www.nytimes.com/2009/08/04/business/04chickens.html?\\_r=1](http://www.nytimes.com/2009/08/04/business/04chickens.html?_r=1) (visited February 2011); Katherine Houstoun, The Backyard Chicken Movement, *Richmond.com*, <http://www2.richmond.com/lifestyles/2010/jun/16/backyard-chicken-movement-ar-592398> (visited February 2011). There has been some skepticism, however, over the booming popularity of backyard chickens. Jack Shafer, Bogus Trend of the Week: Raising Backyard Chickens, *Slate*, May 14, 2009, <http://www.slate.com/id/2218390/> (visited February 2011).
3. Mary MacVean, Victory Gardens Sprout Up Again, *Los Angeles Times* (January 10, 2009), available at: <http://articles.latimes.com/2009/jan/10/home/hm-victory10/2> (visited February 2011).
  4. Amy Eddings, What the Cluck?! Backyard Chicken-Keeping Booming in New York City, *WNYC*, Jul. 8, 2010, <http://www.wnyc.org/articles/wnyc-news/2010/jul/08/what-the-cluck-backyard-chicken-keeping-booming-in-new-york-city/> (visited February 2011).
  5. Although he admits to considering whether to eat it, food writer Jonathan Gold tells the story of how he came to have a pet chicken in *This American Life* Episode 343: Poultry Slam 2007, available to stream or download at <http://www.thisamericanlife.org/radio-archives/episode/343/poultry-slam-2007> (visited February 2011). In Cambridge, Massachusetts, residents attempted to seek approval for five chickens and ducks as residential accessory uses, arguing that the birds were pets. Xi Yu, Chicken and Duck Owners in Cambridge Lose Appeal, *The Harvard Crimson*, Feb. 12, 2010.
  6. Monte Whaley, Backyard-Chickens Just Cage Rattling Longmont Learns, *Denverpost.com* (Nov. 2, 2010), available at: [http://www.denverpost.com/news/ci\\_16496049](http://www.denverpost.com/news/ci_16496049) (visited February 2011).
  7. Dan Flynn, Nations' Cities Debate Backyard Chickens, *Food Safety News*, <http://www.foodsafetynews.com/2010/06/nations-cities-debate-backyard-chickens> (visited February 2011); Amy Eddings, What the Cluck?! Backyard Chicken-Keeping Booming in New York City, *WNYC*, Jul. 8, 2010, <http://www.wnyc.org/articles/wnyc-news/2010/jul/08/what-the-cluck-backyard-chicken-keeping-booming-in-new-york-city/>; Carol Lloyd, Urban Farming: Back to the land in your tiny backyard, *San Francisco Chronicle*, Jun. 27, 2008, [http://articles.sfgate.com/2008-06-27/entertainment/17120257\\_1\\_pot-bellied-pigs-animal-care-and-control-horses-and-goats](http://articles.sfgate.com/2008-06-27/entertainment/17120257_1_pot-bellied-pigs-animal-care-and-control-horses-and-goats) (visited February 2011); Catherine Price, A Chicken on Every Plot, a Coop in Every Backyard, *New York Times* (Sept. 19, 2007), available at <http://www.nytimes.com/2007/09/19/dining/19yard.html> (visited February 2011).
  8. John Aguilar, Lafayette Gives Initial OK to Backyard Chickens, *Daily Camera* (February 1, 2011), available at: [http://www.dailycamera.com/news/ci\\_17262635](http://www.dailycamera.com/news/ci_17262635) (visited February 2011).
  9. Linda Girardi, Batavia Resumes Chicken Debate, *Beacon News* (Jan. 24, 2011), available at: <http://beaconnews.suntimes.com/news/3426295-418/story.html> (visited February 2011); Linda Girardi, March Hearing Set on Batavia's Chicken Issue, *The Courier News* (February 7, 2011), available at: <http://couriernews.suntimes.com/news/3671554-418/chickens-issue-batavia-committee-residents.html> (visited February 2011).
  10. <http://www.scribd.com/doc/44855544/Proposed-Albany-Chicken-Law-Amendment> (visited February 2011).
  11. Jennifer Wardell, NSL Pecks at Backyard Chicken Idea, *Davis County Clipper* (Jan. 24, 2011), available at: [http://www.clippertoday.com/view/full\\_story/11112756/article-NSL-pecks-at-backyard-chicken-idea?instance=secondary\\_stories\\_left\\_column](http://www.clippertoday.com/view/full_story/11112756/article-NSL-pecks-at-backyard-chicken-idea?instance=secondary_stories_left_column) (visited February 2011).
  12. For surveys showing different responses to backyard chickens, see, e.g., Kyle Slavin, Survey Says: Chickens OK in Saanich Backyards, *Saanich News* (January 16, 2011), available at: [http://www.bclocalnews.com/vancouver\\_island\\_south/saanichnews/news/113846889.html](http://www.bclocalnews.com/vancouver_island_south/saanichnews/news/113846889.html) (visited February 2011); Tamara Cunningham, Chicken Survey Says: Not In My Backyard, *Canada.com* (February 4, 2011), available at: <http://www.canada.com/Chicken+survey+says+backyard/4223769/story.html> (visited February 2011).
  13. Eggheads Seek to Educate About Backyard Chickens, <http://www.wxow.com/Global/story.asp?S=13977512> (visited February 2011).
  14. See, e.g., Dan Flynn, Nations' Cities Debate Backyard Chickens, *Food Safety News*, <http://www.foodsafetynews.com/2010/06/nations-cities-debate-backyard-chickens> (visited February 2011); Jill Richardson, How to get your city to allow backyard chickens, *Grist*, Jan. 5, 2011, <http://www.grist.org/article/food-2011-01-05-how-to-get-your-city-to-allow-backyard-chickens>.
  15. No Backyard Chickens for Springville Residents, *Daily Herald* (January 24, 2011), available at: [http://www.heraldextra.com/news/state-and-regional/utah/article\\_2916f1c1-5436-53b3-aea2-c226d175e85e.html](http://www.heraldextra.com/news/state-and-regional/utah/article_2916f1c1-5436-53b3-aea2-c226d175e85e.html) (visited February 2011).
  16. Jim Harger, City Commissioner James White Says He Agrees With Backyard Chicken Ban For Grand Rapids Though He Missed Vote on Issue, *MLive.com* (August 24, 2010), available at: <http://www.mlive.com/news/grand-rapids/index.ssf/2010/08/>

- city\_commissioner\_james\_white.html (visited February 2011).
17. Cindy Schroeder, Cities Cry Fowl Over Residential Chickens, *Cincinnati.com* (Feb. 12, 2011), available at: <http://news.cincinnati.com/article/20110212/NEWS0103/102130335/Cities-cry-fowl-over-residential-chickens?odyssey=tab%7Ctopnews%7Ctext%7CFRONTPAGE> (visited February 2011).
  18. Devra First, Back to the Land, *Boston Globe* (May 27, 2009), available at: [http://www.boston.com/lifestyle/green/articles/2009/05/27/back\\_to\\_the\\_land/?page=2](http://www.boston.com/lifestyle/green/articles/2009/05/27/back_to_the_land/?page=2) (visited February 2011).
  19. Mary MacVean, Victory Gardens Sprout Up Again, *Los Angeles Times* (January 109, 2009), available at: <http://articles.latimes.com/2009/jan/10/home/hm-victory10> (visited February 2011).
  20. J.E. Ikerd, Current Status and Future Trends in American Agriculture: Farming with Grass, available at: <http://web.missouri.edu/~ikerdj/papers/Oklahoma%20Farming%20with%20Grass%20-%20Status%20%20Trends.htm>, p.6 (visited February 2011).
  21. See Kathryn A. Peters, Creating a Sustainable Urban Agriculture Revolution, 25 *Env'tl. L. & Litig.* 203, 214-215 (2010) (discussing the forces popularizing urban agriculture).
  22. [http://www.cherokeega.com/departments/planningandzoning/uploads/File/OrdChanges/backyard\\_chicken\\_ord\\_7.7-9\\_version\\_09-16.pdf](http://www.cherokeega.com/departments/planningandzoning/uploads/File/OrdChanges/backyard_chicken_ord_7.7-9_version_09-16.pdf) (visited February 2011).
  23. See Sandra B. Eskin, Putting All Your Eggs in One Basket: Egg Safety and the Case for a Single Food-Safety Agency, 59 *Food Drug L.J.* 441 (2004); [http://www.aphis.usda.gov/animal\\_health/birdbiosecurity/](http://www.aphis.usda.gov/animal_health/birdbiosecurity/) (visited February 2011).
  24. 21 U.S.C.A. § 451 et seq.
  25. 21 U.S.C.A. § 1031 et seq.
  26. 7 C.F.R. § 57.100 (egg products); 9 C.F.R. § 381.10 (poultry products); see also [http://www.fsis.usda.gov/oppde/rdad/fsisnotices/poultry\\_slaughter\\_exemption\\_0406.pdf](http://www.fsis.usda.gov/oppde/rdad/fsisnotices/poultry_slaughter_exemption_0406.pdf) at 5 (providing a flow chart to determine whether a poultry producer is exempt). See generally Geoffrey S. Becker, CRS Report for Congress RL32922, Meat and Poultry Inspection: Background and Selected Issues, Mar. 22, 2010, available at <http://www.nationalaglawcenter.org/assets/crs/RL32922.pdf> (visited February 2011).
  27. [http://www.fsis.usda.gov/oppde/rdad/fsisnotices/poultry\\_slaughter\\_exemption\\_0406.pdf](http://www.fsis.usda.gov/oppde/rdad/fsisnotices/poultry_slaughter_exemption_0406.pdf) at 2 (visited February 2011).
  28. See <http://www.cdc.gov/Features/SalmonellaPoultry/> and [http://www.cdc.gov/healthypets/pdf/intown\\_flocks.pdf](http://www.cdc.gov/healthypets/pdf/intown_flocks.pdf).
  29. See, e.g., Md. Agriculture Code Ann. § 4-217 (authorizing exemptions similar to those under the federal Poultry Products Inspection Act); COMAR § 15.04.01.09(A)(3) (requiring registration of packers who keep fewer than 3,000 chickens but exempting them from registration and inspection fees); N.Y. Agr. & M. § 90-c (requiring domestic animal health permits only for chicken wholesalers and transporters).
  30. See, e.g., Conn. Gen. Stat. § 22-324 (specifically including poultry kept as pets); N.Y. Ag. & M. § 73.
  31. Texas Dept. of State Health Services, Food Establishments Group Regulatory Clarifications, [http://www.dshs.state.tx.us/foodeestablishments/pdf/RegClarifications/E23-13195\\_FEGRC\\_9.pdf](http://www.dshs.state.tx.us/foodeestablishments/pdf/RegClarifications/E23-13195_FEGRC_9.pdf) (revised May 1, 2009). See also <http://agr.wa.gov/FoodAnimal/Eggs/Licensing.aspx> (visited February 2011).
  32. K.R.S. §§ 260.540 et seq. See also 2010-2011 Kentucky Farmers' Market Manual, Kentucky Dept. of Agriculture, <http://www.kyagr.com/marketing/farm-market/documents/20102011KyFarmersMarketManualwCover.pdf> 73-75.
  33. State of Alabama Farmers Market Authority, Guidance re: Sale of Farm Raised Eggs at Farmers Markets, Jan. 27, 2009, [http://www.fma.alabama.gov/PDFs\\_NEW/Shell\\_Eggs.pdf](http://www.fma.alabama.gov/PDFs_NEW/Shell_Eggs.pdf).
  34. M.C.L. § 289.333. A "first receiver" is a person who receives eggs from a producer at any place of business where such eggs are to be candled, graded, sorted and packed or packaged. M.C.L. § 289.321(d). See also Michigan Department of Agriculture, Operating Policy for Egg Sales at Farmers' Markets, <http://www.michigan.gov/mda/0,1607,7-125--212367--,00.html>.
  35. Oregon Dept. of Agriculture, Farm Direct: Specific commodities: Eggs, [http://www.oregon.gov/ODA/pub\\_fd\\_commodities.shtml#Eggs](http://www.oregon.gov/ODA/pub_fd_commodities.shtml#Eggs).
  36. Michigan Department of Agriculture, Farmers' Market FAQ, [http://www.michigan.gov/mda/0,1607,7-125-1568\\_2387\\_46671\\_46672-169336--,00.html](http://www.michigan.gov/mda/0,1607,7-125-1568_2387_46671_46672-169336--,00.html).
  37. Oregon Dept. of Agriculture, Farm Direct: Specific commodities: Meat and poultry, [http://www.oregon.gov/ODA/pub\\_fd\\_commodities.shtml#Meat\\_and\\_poultry](http://www.oregon.gov/ODA/pub_fd_commodities.shtml#Meat_and_poultry). See also North Carolina Dept. of Agriculture & Consumer Services, Meat & Poultry Inspection Information Statement, <http://www.ncagr.gov/meatpoultry/info.htm>.
  38. N.Y. Mult. D. § 12(2).
  39. MCL § 125.479 (prohibited uses); MCL § 125.401 (scope of act).
  40. See Humane Society of the United States, Cockfighting: State Laws, [http://www.humanesociety.org/assets/pdfs/animal\\_fighting/cockfighting\\_statelaws.pdf](http://www.humanesociety.org/assets/pdfs/animal_fighting/cockfighting_statelaws.pdf) (listing statutes) (last updated June 2010); Brandi Grissom, Cockfighting Outfits Evade the Law, and Continue to Prosper, *The New York Times*, Dec. 23, 2010, <http://www.nytimes.com/2010/12/26/us/26ttcockfighting.html>. (visited February 2011).
  41. See, e.g., D.C. Code § 8-1808; Fla. Stat. § 828.161.



42. See Multi-coloured chicks for Easter, BBC News, <http://news.bbc.co.uk/2/hi/3615191.stm> (visited February 2011).
43. *Myer v. Minard*, 21 So. 2d 72, 74 (La. Ct. App. 2d Cir. 1945).
44. *Myer*, supra n. 44, 21 So. 2d at 76.
45. See, e.g., *Singer v. James*, 130 Md. 382, 100 A. 642 (1917) (finding a nuisance where the defendant kept five hundred chickens, fifty geese, fifty dogs, forty hogs, and various guinea fowl, turkeys, cows, calves, and horses).
46. *Forrester v. Webb*, 1999 WL 74543 (Ohio Ct. App. 12th Dist. Butler County 1999).
47. *Forrester*, supra n. 46.
48. Laws of the City of St. Louis, Missouri Chapter 10 § 20-015 (<http://www.slp1.lib.mo.us/cco/code/data/t1020p1.htm>). See also Code of Ordinances, City of Oak Ridge, Tennessee, Title 10 Chapter 1 § 10-114 ([http://www.mtas.utk.edu/public/municodesweb.nsf/5cde681dbdcd10f8525664000615fc4/aa36ab28994d11e585256faa006a8613/\\$FILE/Oakridge.t10.pdf](http://www.mtas.utk.edu/public/municodesweb.nsf/5cde681dbdcd10f8525664000615fc4/aa36ab28994d11e585256faa006a8613/$FILE/Oakridge.t10.pdf)) (prohibiting the keeping of any livestock, including fowl, within city limits, except in areas specifically zoned for that purpose).
49. *City of St. Paul v. Nelson*, 404 N.W.2d 890 (Minn. Ct. App. 1987).
50. *State v. Nelson*, 499 N.W.2d 512 (Minn. Ct. App. 1993).
51. *State v. Nobriga*, 81 Haw. 70, 912 P.2d 567 (Ct. App. 1996), as amended, (Mar. 11, 1996) (involving an ordinance that providing that “[i]t is unlawful to be the owner of an animal, farm animal or poultry engaged in animal nuisance” and defining “animal nuisance” as including “any animal, farm animal or poultry which: (a) Makes noise continuously and/or incessantly for a period of 10 minutes or intermittently for one-half hour or more to the disturbance of any person”).
52. *Buck Hill Falls Co. v. Clifford Press*, 2002 PA Super 17, 791 A.2d 392 (2002). See also *Olsen v. Kilpatrick*, 2007 WY 103, 161 P.3d 504 (Wyo. 2007) (holding that pheasants were prohibited by covenant).
53. *Becker v. Arnfeld*, 171 Colo. 256, 466 P.2d 479 (1970).
54. *Homewood, Alabama, Code of Ordinances Related to Animal Offenses, Fowl*, sec. 4-8. Available at: [http://search.municode.com/html/11743/level3/COOR\\_CH4ANFO\\_ARTIIIOFREAN.html#COOR\\_CH4ANFO\\_ARTIIIOFREAN\\_S4-8FO](http://search.municode.com/html/11743/level3/COOR_CH4ANFO_ARTIIIOFREAN.html#COOR_CH4ANFO_ARTIIIOFREAN_S4-8FO) (visited February 2011).
55. See, e.g., the codes of Fullerton, California ([http://www.cityoffullerton.com/depts/dev\\_serv/code\\_enforcement/animal\\_regulations.asp](http://www.cityoffullerton.com/depts/dev_serv/code_enforcement/animal_regulations.asp)) (visited February 2011); and Portland, Oregon (<http://www.portlandonline.com/auditor/index.cfm?a=13510&c=28231>) (visited February 2011).
56. *Ann Arbor Ord. No. 08-19*. A copy of the permit application is available at [http://www.a2gov.org/government/city\\_administration/City\\_Clerk/Documents/Backyard%20Chickens%20Permit%200708.pdf](http://www.a2gov.org/government/city_administration/City_Clerk/Documents/Backyard%20Chickens%20Permit%200708.pdf). See also Thelma Guerrero-Huston, *After big flap, only five chicken license applied for in Salem*, *The Statesman Journal*, Jan. 29, 2011, <http://www.statesmanjournal.com/article/20110129/NEWS/101290312/After-big-flap-only-five-chicken-licenses-applied-Salem> (visited February 2011; discussing the permit requirement in Salem, Oregon, which is valid for three years and costs \$50 per year).
57. Code of Ordinances, City of Charlotte, NC, sec. 3-102, available at [http://library1.municode.com:80/default/template.htm?view=browse&doc\\_action=setdoc&doc\\_keytype=tocid&doc\\_key=1c56ab278fcac109f43f0a5468a9a640&infobase=19970](http://library1.municode.com:80/default/template.htm?view=browse&doc_action=setdoc&doc_keytype=tocid&doc_key=1c56ab278fcac109f43f0a5468a9a640&infobase=19970).
58. Code of Ordinances, City of Knoxville, Tennessee, Part 2 Chapter 5 Article IV § 5-107 (<http://library.municode.com/index.aspx?clientId=11098&stateId=42&stateName=Tennessee&customBanner=11098.jpg&imageclass=L&ccl=11098.txt>).
59. City of Salem, Oregon, *Chicken License Application*, see <http://www.cityofsalem.net/Departments/CommunityDevelopment/BAS/Documents/Chicken%20License%20Application.pdf> (visited February 2011).
60. City of Adair Village *Backyard Chicken Permit Application*, available at: <http://www.cityofadairvillage.org/Planning/2010%20Building%20Permits/Backyard-Chicken-Permit-Application-FINAL.pdf> (visited February 2011).
61. City of Ann Arbor *Permit to Keep Backyard Chickens*, [http://www.a2gov.org/government/city\\_administration/City\\_Clerk/Documents/Backyard%20Chickens%20Permit%200708.pdf](http://www.a2gov.org/government/city_administration/City_Clerk/Documents/Backyard%20Chickens%20Permit%200708.pdf) (visited February 2011).
62. City of Brainerd *Permit to Keep Chickens*, <http://www.ci.brainerd.mn.us/administration/docs/chickenpermit.pdf> (visited February 2011).
63. Dan Linehan, *Mankato Council Approves Chicken Ordinance*, *The Free Press* (June 14, 2010) available at: <http://mankatofreepress.com/local/x1996924618/Mankato-City-Council-Urban-chicken-hearing-Live> (visited February 2011).
64. [http://www.ci.durham.nc.us/departments/planning/limited\\_ag\\_permit.cfm](http://www.ci.durham.nc.us/departments/planning/limited_ag_permit.cfm) (visited February 2011).
65. [http://www.ci.longmont.co.us/planning/permits/documents/chicken\\_permit.pdf](http://www.ci.longmont.co.us/planning/permits/documents/chicken_permit.pdf) (visited February 2011).
66. Portland, Maine, Code § 5-403, <http://www.portlandmaine.gov/citycode/chapter005.pdf>.

67. San Francisco Health Code, art. 1, § 37; see [http://library.municode.com/HTML/14136/level1/ART1AN.html#ART1AN\\_S37KEFESMANPOGABI](http://library.municode.com/HTML/14136/level1/ART1AN.html#ART1AN_S37KEFESMANPOGABI) (visited February 2011).
68. Houston, Code §§ 6-34 (show chickens), 6-38 (chicken hens); available at: <http://library.municode.com/index.aspx?clientId=10123&stateId=43&stateName=Texas> (visited February 2011).
69. Windsor Heights, Iowa, City Code, Section 32.02, available at: <http://www.windsorheights.org/City%20Code/Ch%2032%20Animal%20Control.pdf> (visited February 2011).
70. [http://www.co.larimer.co.us/planning/planning/land\\_use\\_code/amendmentsadopted111510backyardchickens.pdf](http://www.co.larimer.co.us/planning/planning/land_use_code/amendmentsadopted111510backyardchickens.pdf) (visited February 2011).
71. Seattle Municipal Code 23.42.052, as amended Aug. 23, 2010, available at <http://clerk.ci.seattle.wa.us/%7Escripts/nph-brs.exe?s1=&s3=116907&s4=&s2=&s5=&Sect4=AND&l=20&Sect2=THESON&Sect3=PLURON&Sect5=CBORY&Sect6=HITOFF&d=ORDF&p=1&u=%2F%7Epublic%2Fcbory.htm&r=1&f=G> (visited February 2011).
72. See, e.g., Xi Yu, *Chicken and Duck Owners in Cambridge Lose Appeal*, *The Harvard Crimson*, Feb. 12, 2010.
73. See, e.g., *Simmons v. Zoning Bd. of Appeals of Newburyport*, 60 Mass. App. Ct. 5, 798 N.E.2d 1025 (2003) (stabling three horses found not to be “agricultural,” but permitted as an accessory residential use); *Anderson v. Board of County Com’rs of Teton County*, 2009 WY 122, 217 P.3d 401 (Wyo. 2009) (upholding the board’s determination that a barn/equestrian center was an accessory residential structure).
74. See, e.g., *De Benedetti v. River Vale Tp.*, Bergen County, 21 N.J. Super. 430, 91 A.2d 353 (App. Div. 1952) (“Certainly, chicken houses could not be considered as accessory to, or complementary to, the main building of plaintiffs’ premises, which is the dwelling house.”); *Lawrence v. Zoning Bd. of Appeals of Town of North Branford*, 158 Conn. 509, 264 A.2d 552 (1969) (holding that the board did not act illegally or arbitrarily in determining that the raising of chickens and goats was not an accessory use to residential property located in the center of town under an ordinance permitting accessory uses customarily incidental to uses in rural residential and agricultural districts).
75. Code of Ordinances, City of Concord, New Hampshire Title IV Chapter 28(4)(28); see <http://library.municode.com/index.aspx?clientId=10210&stateId=29&stateName=New%20Hampshire> (visited February 2011).
76. Grand Rapids, MN Code § 10-72; see also [http://www.facebook.com/note.php?note\\_id=134300076826](http://www.facebook.com/note.php?note_id=134300076826) (visited February 2011).
77. Pima County Code of Ordinances, § 18.25.010; see [http://library.municode.com/html/16119/level2/TIT18ZO\\_CH18.25SIREZO.html](http://library.municode.com/html/16119/level2/TIT18ZO_CH18.25SIREZO.html) (visited February 2011).
78. [http://sterlingcodifiers.com/codebook/getBookData.php?section\\_id=600663](http://sterlingcodifiers.com/codebook/getBookData.php?section_id=600663) (visited February 2011).
79. Little Rock City Code, Little Rock, Arkansas Chapter 6 Article 4(44); see <http://library.municode.com/index.aspx?clientId=11170&stateId=4&stateName=Arkansas> (visited February 2011).
80. Municipal Code of Topeka, Kansas Title 6 §40; see <http://www.codepublishing.com/KS/Topeka/> (visited February 2011).
81. Code of the City of Stamford, Connecticut §111-6; see [http://library2.municode.com/default-test/home.htm?infobase=13324&doc\\_action=whatsnew](http://library2.municode.com/default-test/home.htm?infobase=13324&doc_action=whatsnew) (visited February 2011).
82. Sacramento Code §9.44.340, [http://www.qcode.us/codes/sacramento/view.php?topic=9-9\\_44-iii-9\\_44\\_360&frames=on](http://www.qcode.us/codes/sacramento/view.php?topic=9-9_44-iii-9_44_360&frames=on) (visited February 2011).
83. Lenexa Code § 3-2-H-1, <http://www.ci.lenexa.ks.us/LenexaCode/codetext.asp?section=003.002.008> (visited February 2011).
84. City of Atlanta, GA Zoning Code, <http://library.municode.com/index.aspx?clientId=10376&stateId=10&stateName=Georgia> Art. II sec. 18-7 (visited February 2011).
85. Code of Ordinances, City of Knoxville, Tennessee, Part 2 Chapter 5 Article IV § 5-107 (<http://library.municode.com/index.aspx?clientId=11098&stateId=42&stateName=Tennessee&customBanner=11098.jpg&imageclass=L&cl=11098.txt>).
86. City of Atlanta, GA, Zoning Code, <http://library.municode.com/index.aspx?clientId=10376&stateId=10&stateName=Georgia> Art. II sec. 18-7 (visited February 2011).
87. Code of Ordinances, City of Knoxville, Tennessee, Part 2 Chapter 5 Article IV § 5-107 (<http://library.municode.com/index.aspx?clientId=11098&stateId=42&stateName=Tennessee&customBanner=11098.jpg&imageclass=L&cl=11098.txt>) (visited February 2011).
88. City of Atlanta, GA., Zoning Code, <http://library.municode.com/index.aspx?clientId=10376&stateId=10&stateName=Georgia> Art. II sec. 18-7 (visited February 2011).
89. [http://search.municode.com/html/11265/level4/CICO\\_CH7ANFO\\_ARTIVLIPO\\_DIV2PO.html](http://search.municode.com/html/11265/level4/CICO_CH7ANFO_ARTIVLIPO_DIV2PO.html) (visited February 2011).
90. Code of Ordinances, City of Concord, New Hampshire Title IV Chapter 28(4)(28) (<http://library.municode.com/index.aspx?clientId=10210&stateId=29&stateName=New%20Hampshire>).
91. Baton Rouge Code §14:224 (c)(1) (<http://library.municode.com/index.aspx?clientId=10107&stateId=18&stateName=Louisiana>).

92. New York City Health Code §161.19, <http://www.nyc.gov/html/doh/downloads/pdf/zoo/zoo-animal-healthcode.pdf> (visited February 2011).
93. Unified Development Code, City of Overland Park, KS, Sec. 18.370.020, available at: <http://law.opkansas.org/lpBin22/lpext.dll?f=templates&fn=main-hit-h.htm&2.0> (visited February 2011).
94. Geoff Campbell, Zoning Board Rejects In-Law Apartment, Approves Chicken Coops, The Jamestown Press (Nov. 4, 2010), available at: [http://www.jamestownpress.com/news/2010-11-04/News/Zoning\\_Board\\_rejects\\_inlaw\\_apartment\\_approves\\_chic.html](http://www.jamestownpress.com/news/2010-11-04/News/Zoning_Board_rejects_inlaw_apartment_approves_chic.html) (visited February 2011).
95. Geoff Campbell, Zoning Board Rejects In-Law Apartment, Approves Chicken Coops, The Jamestown Press (Nov. 4, 2010), available at: [http://www.jamestownpress.com/news/2010-11-04/News/Zoning\\_Board\\_rejects\\_inlaw\\_apartment\\_approves\\_chic.html](http://www.jamestownpress.com/news/2010-11-04/News/Zoning_Board_rejects_inlaw_apartment_approves_chic.html) (visited February 2011).
96. See, Minutes of the Leadville Planning and Zoning Commission Joint Meeting, July 6, 2010, available at: <http://www.cityofleadville.com/reports/PZMinutes/2010PZMinutes/20100706AppMinutes.pdf> (visited February 2011).
97. Rogers, Arkansas Ordinance No. 06-100, <http://www.rogersarkansas.com/clerk/chkordinance.asp> (visited February 2011).
98. Buffalo Code § 341-11.3(D), <http://www.ecode360.com/?custId=BU1237> (visited February 2011).
99. Madison, Wisconsin Code § 28.08(2)(b)8.j.ii, <http://library.municode.com/index.aspx?clientId=50000&stateId=49&stateName=Wisconsin> (visited February 2011).
100. Knoxville Code Art. II § 5-107, <http://library.municode.com/index.aspx?clientId=11098&stateId=42&stateName=Tennessee&customBanner=11098.jpg&imageclass=L&cl=11098.txt> (visited February 2011).
101. Chicago Code § 7-12-300, [http://www.amlegal.com/nxt/gateway.dll/Illinois/chicago\\_il/municipalcodeofchicago?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:chicago\\_il](http://www.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/municipalcodeofchicago?f=templates$fn=default.htm$3.0$vid=amlegal:chicago_il) (visited February 2011).
102. San Francisco Code, <http://library.municode.com/index.aspx?clientId=14136&stateId=5&stateName=California> (visited February 2011).
103. See for example, The City Chicken at <http://home.centurytel.net/thecitychicken/index.html>; and Backyard Chickens at: <http://www.backyardchickens.com> (visited February 2011).

---

## OF RELATED INTEREST

Discussion of matters related to the subject of the above article can be found in:

Salkin, American Law of Zoning § 18:10

Zeigler, Rathkopf's The Law of Zoning and Planning § 33:16

Keeping Poultry as Nuisance, 2 A.L.R.3d 965

CITY OF BATAVIA  
**CHICKEN AND COOP REQUIREMENTS**



**City of Batavia**  
**Building Division**  
**Community Development Department**  
100 North Island Avenue  
Batavia, Illinois 60510  
Tel: (630)454-2700  
Fax: (630) 454-2775  
<http://www.cityofbatavia.net>

*Please direct all questions to the City of Batavia Building Division of the Community Development Department, Monday through Friday from 8 AM to 5 PM at (630) 454-2700.*

*This is a summary of the City of Batavia Ordinances allowing chickens and chicken coops. This is intended to interpret and explain the ordinances but does not represent or replace the actual ordinance language. Every effort has been made to ensure the accuracy and timeliness of this information.*

*12/04/15*

### **Requirements for the keeping of hens and coops**

- A maximum of eight (8) domestic hens shall be kept on a property that is zoned and occupied for single family residential use, or zoned PFI Public Facilities and Institutional and occupied by Schools, Public and Private only.
- The keeping of roosters and the slaughter of any chickens is prohibited.
- Hens shall be provided with a covered inside enclosure and adjacent covered outside fenced area. The outside area shall not be less than 32 square feet in area.
- For all properties, enclosures and the adjacent occupied fence area shall be setback a minimum of thirty (30) from any adjacent occupied residential structure, other than that of the owner; but not less than the minimum property line setback required for accessory structures in the Zoning District. Additionally for PFI zoned properties, the enclosures and adjacent occupied fenced area shall be set back a minimum of one hundred and fifty feet (150') from all streets and located not between the principal structures and adjacent streets
- All enclosures shall be constructed and maintained in manner to be free of rodent infestation.
- A building permit is required for all enclosures. The permit fee is the same as a shed permit.

## Requirements for the keeping of hens and coops (Continued)

---

- Electric service to enclosures shall not be provided by an extension cord or cords.
- Hens shall be kept in the enclosure and fenced area at all times.
- All chickens and enclosures shall be kept in the rear yard.
- All areas where hens are kept shall be maintained neat and clean and free of undue accumulation of waste such as to cause odors detectable on adjacent property.
- No person shall allow chickens to produce noise loud enough to disturb the peace of persons of reasonable sensitivity and shall not allow the nuisance to exist.

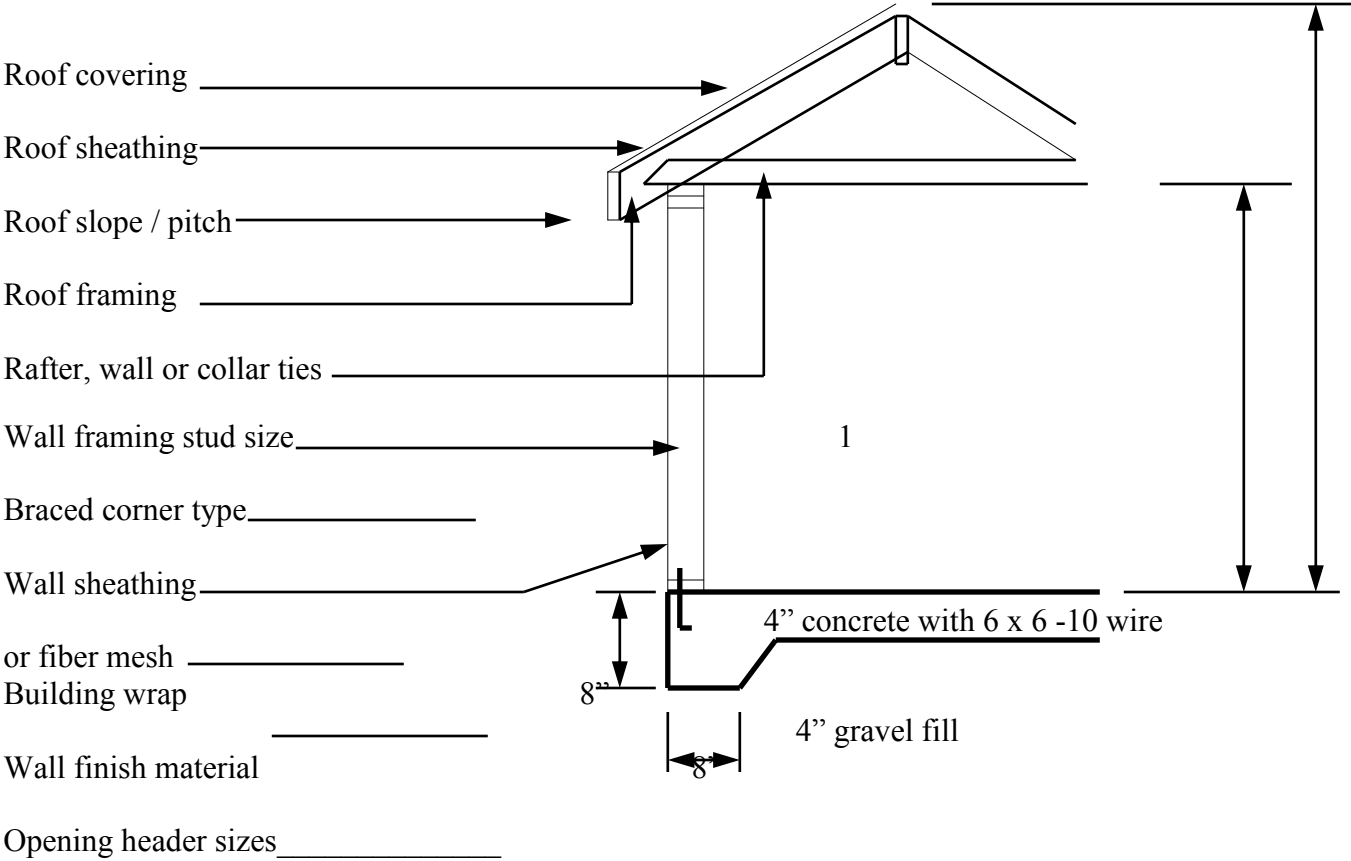
## Application Procedure

---

1. Submit a completed Building Permit Application to the Building Division of the Community Development Department.
  2. Pay required minimum submittal fee.
  3. Attach two (2) copies of drawings to the application showing the construction details, see attached sample.
  1. Attach two (2) copies of the plat of survey showing the location of the coop and outside fenced area, setbacks to property lines, setbacks to any adjacent occupied residential structures, and all utilities (electric, gas, phone, sewer, water, etc.) *(sample attached)*  
**Survey shall be to scale, not reduced or enlarged when copied.**
  5. Call J.U.L.I.E (Joint Underground Location for Inspectors and Engineers) at least 48 hours prior to any digging to locate any underground utilities. (Dial 811 or 800-892-0123)
  6. Complete the Keeping of Chickens registration form.
  7. If property is not owner occupied, Property owner's signature will be required on the building application and chicken and coop registration form.
  8. Schedule the required inspections with the City of Batavia Building Division at least 48 hours in advance to insure that we can meet your schedule.
-

# Wall & Roof Section

INDICATE DIMENSIONS AND MATERIALS



- Indicate the location with dimensions of the coop and the run area on the property.
- Show the location and distance of all occupied residential structures that surround the property applying for permit.





**City of Batavia**  
Community Development Department  
100 North Island Avenue  
Batavia IL 60510  
Phone (630) 454-2000  
Fax (630) 454-2775

## CHICKEN REGISTRATION APPLICATION

Registration number: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

Building Address: \_\_\_\_\_  
Building Owner: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_  
Responsible Party of Chickens: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_  
Property Owner Occupied: Yes \_\_\_ No \_\_\_ If no, Owner Address: \_\_\_\_\_

### PLEASE READ THE FOLLOWING CONDITIONS REGARDING THE KEEPING OF CHICKENS

All persons keeping chickens in the City of Batavia shall keep no more than 8 hens.  
Roosters shall not be kept anywhere on premise.  
Slaughter of any chickens shall not be allowed except for humane reasons only.  
Hens shall be provided with a covered inside enclosure and an adjacent covered outside fence area not less than 32 square feet.  
All hens will be kept in the enclosures and fenced areas at all times.  
All hens are kept in the rear yard.  
All enclosure (s) will remain 30 feet from any adjacent residential structure, other than the owner, but not less than the minimum property line setback required for accessory structures in the Zoning District.  
PFI zoned properties shall keep enclosures and fenced areas 150 feet from all streets and not between the principal structure and adjacent streets.  
Electric service to enclosure will not be provided by electrical cord or cords.  
All enclosures and areas will be kept clean, sanitary and rodent free at all times.  
All feed shall be contained in containers with tightly fitted lids.  
Owner will ensure that the hens do not produce unreasonable noise.  
Owner agrees to allow Building Division staff personnel to access the rear yard of the residence for the purpose of verifying compliance with the above and Title 5, Chapter 4, and 5-4B7 of the Municipal Code.

*If it has been found that violation exists and correction has not been made within the timeframe given by the Code Compliance Officer, fines in the amount of \$100.00 a day, every day the violation exists will be implemented as well as an appearance in front of the Adjudication Hearing Officer. If there have been three documented violations within any twelve month period, there will be a loss of permission to keep chickens on the property. Keeping chickens after permission has been revoked will result in a \$750.00 fine a day every day the violation exists and an appearance in front of the Adjudication Hearing Officer.*

**By signing this document, I understand and agree to the conditions set forth.**

Responsible Party: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

Approved: \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_ Inspector: \_\_\_\_\_

License # \_\_\_\_\_



**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 11-04  
AMENDING TITLE 5 OF THE MUNICIPAL CODE  
RELATING TO ALLOWING CHICKENS ON CERTAIN  
RESIDENTIAL PROPERTIES IN THE  
CITY OF BATAVIA**

**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
THIS 16<sup>TH</sup> DAY OF MAY, 2011**

Published in pamphlet form  
by authority of the Mayor  
and City Council of the City of Batavia,  
Kane & DuPage Counties, Illinois,  
This 17<sup>th</sup> day of May, 2011

Prepared by:  
  
City of Batavia  
100 N. Island Ave.  
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS**  
**ORDINANCE 11-04**  
**AMENDING TITLE 5 OF THE MUNICIPAL CODE**  
**RELATING TO ALLOWING CHICKENS ON CERTAIN**  
**RESIDENTIAL PROPERTIES IN THE**  
**CITY OF BATAVIA**

**WHEREAS**, the City of Batavia's Municipal Code has for many years prohibited the keeping of chickens on residential property in the City limits; and

**WHEREAS**, the City Council has been requested by several residents to change the City Code to permit the keeping of chickens on residential property in the city limits; and

**WHEREAS**, there has been significant public input presented to the City demonstrating that there is substantial community benefit from permitting residents to keep a limited number of chickens for personal use in the residential areas of the City; and

**WHEREAS**, those communities who permit a limited number of chickens to be kept in residential areas have experienced few problems resulting from that action; and

**WHEREAS**, there are demonstrated health benefits from allowing residents to raise chickens; and

**WHEREAS**, many communities in the region have adopted ordinances permitting residents to keep up to eight hens for personal uses; and

**WHEREAS**, the City Services Committee has studied the issue and held several public meetings where residents were afforded an opportunity to express their opinions about a potential change to the City Code to permit chickens on residential property; and

**WHEREAS**, the County Health Department has noted its approval for the adoption of an ordinance allowing up to eight hens on a residential property; and

**WHEREAS**, the City Services Committee has voted to recommend approval of Ordinance 11-04 to the City Council; and

**WHEREAS**, the City Council has reviewed the recommendation of the City Services Committee for changes to Municipal Code Title 5; and

**WHEREAS**, it is in the best interests of the City of Batavia and its residents that the proposed ordinance be adopted by the City Council of the City of Batavia.

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

**SECTION 1:** That Title 5 of the Municipal Code be revised as follows:

Chapter 4 ANIMAL CONTROL, Article 4B ANIMALS

5-4B-1: KEEPING OF ANIMALS RESTRICTED

The words “other than eight (8) domestic hens” shall be inserted following the words “fowl and poultry” in sentence one. The last sentence, beginning with the words “In regard to fowl/poultry...”, shall be deleted.

Add new Section 5-4B-7: STANDARDS FOR KEEPING OF CHICKENS

- A. Up to eight domestic hens may be kept on properties zoned and occupied for single family residential use only.
- B. Roosters are prohibited in the city limits.
- C. No person shall slaughter any chickens in the city limits, except for humane reasons.
- D. Hens shall be provided with a covered inside enclosure and an adjacent covered outside fenced area. The outside fenced area shall be no less than 32 square feet in area.
- E. The enclosures and adjacent fenced area shall be set back:
  - 1. thirty feet from any adjacent occupied residential structure, other than that of the owner; but
  - 2. not less than the minimum property line setback required for accessory structures in the Zoning district.
- F. All enclosures shall be constructed and maintained in such a manner as to be free of rodent infestation.
- G. A building permit shall be required for all enclosures. The permit fee shall be the same as for a shed.
- H. Electric service to enclosures shall not be provided by an extension cord or cords.

- I. Hens shall be kept in the enclosure and fenced area at all times.
- J. All feed and other items that are associated with the keeping of chickens that are likely to attract or to become infested with rats, mice or other rodents shall be protected in a container with a tightly fitted lid so as to prevent rodents from gaining access to or coming into contact with them.
- K. All chickens shall be kept in the rear yard.
- L. All areas where hens are kept shall be maintained in a neat and clean manner, free of undue accumulation of waste such as to cause odors detectable on adjacent properties.
- M. No person shall allow chickens to produce noise loud enough to disturb the peace of persons of reasonable sensitivity, and it is hereby declared a nuisance and shall be unlawful for any person to allow such nuisance to exist.

Add new Section 5-4B-8. REGISTRATION AND PENALTIES

- A. All persons keeping chickens in the City shall register with the Code Compliance officer prior to acquiring the chickens. Registration shall be on a form established by the Community Development Department. Registration forms will not be accepted until the enclosure has passed a final inspection by the Building Division. Persons having chickens as of the effective date of this Ordinance shall have 30 days to bring their property into compliance with this Ordinance.
- B. The registration form shall include written permission for any Building Division staff member to access the rear yard of the residence for the purpose of verifying compliance with this Code on a periodic basis. The form shall also acknowledge receipt of a copy of the standards set forth in Section 5-4B-7 above by person registering.
- C. There shall be no fee charged for registration.
- D. Failure to notify the Code Compliance Officer in accordance with "A" above or failure to allow an inspection in accordance with "B" above shall constitute a violation of the City Code and shall be punishable by a fine of no more than \$100 plus hearing costs, the amount to be established by the Code Hearing Officer.
- E. Violation of any standard in Section 5-4B-7 above shall be punishable by a fine not to exceed \$100 plus court costs, such fine to be established by the Code Hearing Officer. Each day a violation continues shall be considered a separate offense.

- F. Three violations of this Ordinance on a property within any twelve month period shall result in loss of permission to keep chickens on the property. Keeping of chickens after permission has been revoked shall be punishable by a fine not to exceed \$750 plus court costs, such fine to be established by the Code Hearing Officer. Each day a violation continues shall be considered a separate offense.

Add new section 5-4B-9. CONFLICT WITH PRIVATE COVENANTS

Nothing in this Chapter shall be construed to permit the keeping of chickens when such activity is prohibited by private covenants, conditions or restrictions governing the use of property, or by rules, regulations or orders issued by the Illinois Department of Public Health or the Kane County Health Department.

**SECTION 2:** That this Ordinance 11-04 shall be in full force and effect upon its presentation, passage and publication according to the law.

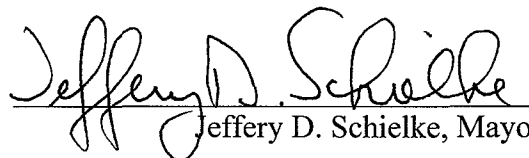
CITY OF BATAVIA. ILLINOIS ORDINANCE 11-04

---

**PRESENTED** to the City Council of the City of Batavia, Illinois, this 16<sup>th</sup> day of May, 2011.

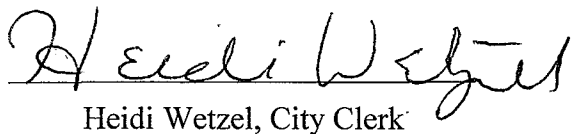
**PASSED** by the City Council of the City of Batavia, Illinois, this 16<sup>th</sup> day of May, 2011.

**APPROVED** by me as Mayor of said City of Batavia, Illinois, this 16<sup>th</sup> day of May, 2011

  
 Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien		x			Sparks	x			
2	Dietz	x				Wolff	x			
3	Jungels		x			Chanzit	x			
4	Volk	x				Stark	x			
5	Frydendall	x				Thelin Atac	x			
6	Liva	x				Clark		x		
7	Tenuta		x			Brown		x		
Mayor Schielke										
VOTE:		9 Ayes	5 Nays	0 Absent		Abstention(s)				
Total holding office:		Mayor and 14 aldermen								

ATTEST:

  
 Heidi Wetzels, City Clerk



**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 15-45**

**AMENDING TITLE 5 OF THE MUNICIPAL CODE  
RELATING TO ALLOWING CHICKENS ON CERTAIN  
RESIDENTIAL PROPERTIES IN THE  
CITY OF BATAVIA**

**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
THIS 2<sup>ND</sup> DAY OF NOVEMBER, 2015**

Published in pamphlet form  
by authority of the Mayor  
and City Council of the City of Batavia,  
Kane & DuPage Counties, Illinois,  
This 3<sup>rd</sup> day of November, 2015

Prepared by:  
  
City of Batavia  
100 N. Island Ave.  
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 15-45**

**AMENDING TITLE 5 OF THE MUNICIPAL CODE  
RELATING TO ALLOWING CHICKENS ON CERTAIN  
RESIDENTIAL PROPERTIES IN THE  
CITY OF BATAVIA**

**WHEREAS**, the City of Batavia's Municipal Code had for many years prohibited the keeping of chickens in the City limits; and

**WHEREAS**, in 2011, the City Council, in response to citizen request, adopted Ordinance 11-04 that amended the Municipal Code to permit the keeping of chickens on certain residential property; and

**WHEREAS**, few negative effects have been experienced with keeping of chickens on residential property; and

**WHEREAS**, the City received a request to permit keeping of chickens on a private school property; and

**WHEREAS**, the City recognizes the educational and developmental opportunities that caring for chickens provides to students; and

**WHEREAS**, the City Council has found that applying similar rights and restrictions for keeping of chickens on residential properties is appropriate to extend to school properties; and

**WHEREAS**, the City Council's Committee of the Whole has voted to recommend approval of Ordinance 15-45 to the City Council; and

**WHEREAS**, the City Council has reviewed the recommendation of the Committee for changes to Municipal Code Title 5; and

**WHEREAS**, it is in the best interests of the City of Batavia and its residents that the proposed ordinance be adopted by the City Council of the City of Batavia.

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

CITY OF BATAVIA ORDINANCE 15-45

---

**SECTION 1:** That the following Sections of Municipal Code Section 5-4B-7: STANDARDS FOR KEEPING OF CHICKENS be amended to read as follows:

5-4B-7-A. Up to eight (8) domestic hens may be kept only on properties zoned and occupied for single-family residential use or zoned PFI Public Facilities and Institutional and occupied by Schools, Public and Private, as defined in Title 10 herein, only.

5-4B-7-E. The enclosures and adjacent fenced area shall be set back:

1. A minimum of one hundred and fifty feet (150') from all streets and located not between the principal structures and adjacent streets on properties zoned PFI;
2. Thirty feet (30') from any occupied residential structure on an adjacent property, other than that of the owner; but
3. Not less than the minimum property line setback required for accessory structures in the zoning district.

5-4B-7-K. All chickens shall be kept in the rear yard on residential properties.

**SECTION 2:** That the following Subsection of Municipal Code Section 5-4B-8: REGISTRATION AND PENALTIES FOR CHICKENS be amended to read as follows:

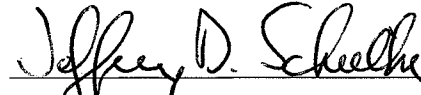
5-4B-8-B. The registration form shall include written permission for any building division staff member to access the rear yard of the residence or to access the school property for the purpose of verifying compliance with this code on a periodic basis. The form shall also acknowledge receipt of a copy of the standards set forth in section 5-4B-7 of this article by person registering.

**SECTION 3:** That this Ordinance 15-45 shall be in full force and effect upon its presentation, passage and publication according to the law.

CITY OF BATAVIA ORDINANCE 15-45

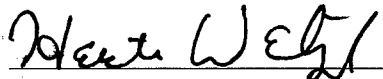
**PRESENTED** to and **PASSED** by the City Council of the City of Batavia, Illinois, this 2<sup>nd</sup> day of November, 2015.

**APPROVED** by me as Mayor of said City of Batavia, Illinois, 2<sup>nd</sup> day of November, 2015.

  
Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien	x				Fischer	x			
2	Callahan	x				Wolff	x			
3	Hohmann	x				Chanzit	x			
4	Mueller	x				Starks	x			
5	Botterman	x				Thelin Atac	x			
6	Cerone	x				Russotto		<del>x</del>	x	
7	McFadden	x				Brown	x			
Mayor Schielke										
VOTE:		13 Ayes	0 Nays	1 Absent	Abstention(s)					
Total holding office: Mayor and 14 aldermen										

ATTEST:

  
Heidi Wetzel, City Clerk

It shall be unlawful for any person to keep any chickens within the village, on any lot, piece or parcel of land, except as provided in subsections (a) through (i) below.

- (a) *Permitted locations.* Domestic hens may be kept within the village only on property zoned and occupied for single family residential use. All hens shall be kept in the rear yard of the permitted location.
- (b) *Maximum number.* It shall be unlawful for any person to keep more than eight (8) hens, of any age, on property zoned and occupied for single family residential use within the village.
- (c) *Keeping of roosters.* It shall be unlawful for any person to keep a rooster(s) within the village.
- (d) *Slaughtering of chickens.* It shall be unlawful for any person to slaughter any chickens within the village, except for a humane reason.
- (e) *Shelter and fenced areas.* All hens kept in the village pursuant to this article, shall at all times be provided a shelter and an adjacent covered outside fenced area. All hens shall be kept in a shelter or adjacent outside fenced area at all times. The outside fenced area shall be no less than thirty-two (32) square feet in area and shall be demarcated with a fence constructed of wood or metal, excluding barbed wire or razor wire, of sufficient height to contain the hens. The shelter shall be no less than sixteen (16) square feet in area and no more than six (6) feet in height. The shelter shall contain an independent electric/heat source. Such utilities shall not be maintained with the use of extension cords.

The shelter and adjacent outside fenced area shall also be:

- (1) Thirty (30) feet from any adjacent occupied residential structure other than that of the owner or occupant of the real property on which the shelter and adjacent outside fenced area are located;
  - (2) Not less than the minimum property line setback required for accessory structures in an R-1 zoning district as defined by the village's zoning code; and
  - (3) Constructed in such a manner as to contain the hens to the shelter or the adjacent outside fenced area at all times and to keep the shelter and adjacent outside fenced area free from rodent infestation.
- (f) *Property maintenance.* All areas in which hens are kept shall be maintained in a neat and clean manner, free from undue accumulation of waste such as to cause odors detectable on adjacent properties. All feed for hens shall, except when placed for consumption by the hens, be kept in containers with tightly fitted lids that are rodent-proof.
  - (g) *Permit/inspection required.* A permit shall be required for construction of a shelter utilized to contain hens. The permit shall be issued by the village's building department. The fee for the permit for construction of the shelter shall be twenty dollars (\$20.00). Two (2) inspections by the village's building department officials shall be required during construction of the shelter. The first shall occur upon installation of the base/floor of the shelter and prior to any further construction of the shelter; and the second shall occur upon completion of the shelter and prior to the owner acquiring hens to occupy the shelter. The inspections are required to confirm compliance with this article and the village's building code. A fee of thirty dollars (\$30.00) shall be charged for each inspection. The owner/occupant of the property shall be responsible for contacting the village's building department to schedule each inspection of the shelter.
  - (h) *Registration.* All persons keeping hens in the village shall register with the village's planning department prior to acquiring the hens. Registration shall be on a form established by the village's planning department and shall include written permission for any village building or code enforcement official to access the rear yard of the property where the hens are located for the purpose of verifying compliance with applicable village Code. Registration shall not be permitted until the shelter has passed final inspection by the village's building department.
  - (i) *Compliance.* All persons having chickens as of the effective date of this ordinance shall have ninety (90) days to bring their property into compliance with this article.

#### 10-4-6: - FOWL AND LIVESTOCK:

1. Housing: All fowl and livestock shall be kept within a pen, coop, building or other enclosure sufficient in size and strength to confine such animals to the owner's property, except that livestock may be tethered securely to a fixed object outside the enclosure, but only if the animal is so confined to the owner's property. A permit shall be obtained from the City of Naperville prior to the construction, addition, or modification of any pen, coop, building or other enclosure used for the purposes of housing fowl or livestock.
2. Zoning: Fowl and livestock may be kept in any area in the City except as otherwise provided by this Chapter or the City's Zoning Ordinance. <sup>[8]</sup>
3. Restrictions:
  - 3.1. A maximum of eight (8) fowl shall be permitted on any property. Roosters shall be prohibited.
  - 3.2. No livestock shall be kept, housed, maintained, or pastured within a distance of two hundred (200) feet of any occupied residence other than that of the owner.
  - 3.3. No pen, coop, building or other enclosure used for the purpose of housing fowl (with the exception of homing pigeons) shall be erected or maintained within thirty (30) feet of any occupied residence other than that of the owner.
  - 3.4. Every person maintaining a pen, coop, building, yard or enclosure for fowl or livestock shall keep such area clean and sanitary at all times. Any dirt or refuse resulting from the fowl or livestock shall be disposed in a clean and sanitary fashion.
  - 3.5. All feed for fowl or livestock shall be kept in containers that are rodent-proof until put out for consumption by fowl or livestock.
  - 3.6. Any pen, coop, or other structure used for the purpose of housing fowl that is not fully-enclosed shall be screened to a height of six (6) feet. Said screening shall be comprised of fences or walls six (6) feet in height, landscaping of at least seventy-five percent (75%) opacity, such as non-deciduous plantings, or equivalent screening and shall be located either along the perimeter of the lot where the pen, coop, building or other enclosure used for the purpose of housing fowl is located, or around the perimeter of the pen, coop, or enclosure itself.

(Ord. No. 12-013, § 2, 2-7-2012)

**Editor's note**— Section 3 of Ord. No. 12-013 states the following: "Any housing for fowl or livestock lawfully established prior to February 7, 2012 shall be permitted to continue operating in accordance with provisions of law and the Municipal Code related to nonconforming uses for a six-month period expiring August 8, 2012. Upon completion of the amortization period, all housing for fowl or livestock shall operate in compliance with the provisions of Section 10-4-6 (Fowl and Livestock)."

--- (8) ---

*See Title 6 of this Code.*



9-4-5. - CERTAIN ANIMALS PROHIBITED.

- (A) It shall be unlawful, and is hereby declared a nuisance for any person to keep or allow to be kept any animal of the species of horse, mule, swine, sheep, goat, cattle, poultry (with the exception of hens as herein provided), skunks, or poisonous reptiles within the corporation limits of the City of Evanston.
- (B) Hens shall mean the female of the species Gallus Gallus Domesticas.
- (C) It shall be unlawful to keep roosters within City limits.
  - 1. The number of hens allowed shall be no less than two (2), and no more than six (6).
  - 2. Any structures housing hens shall be termed an "accessory structure" as defined in Title 6, Chapter 18, Section 3 of the Evanston City Code, and shall abide by all requirements set forth in Title 6, Chapter 4, Section 6-2, "General Provisions for Accessory Uses and Structures," and Title 5, Chapter 1, "Property Maintenance Code" of the Evanston City Code.
  - 3. Applicants shall register with the Illinois Department of Agriculture Livestock Premises Registration, and must have proof of registration on-site.
  - 4. Care for hens shall follow the provisions set forth in this Chapter.
  - 5. Hens shall be kept in such a way so as not to cause a nuisance as defined in Title 1, Chapter 3, Section 2, and enumerated in Title 8, Chapter 4, Section 1 of the Evanston City Code and shall be kept in conformance with the following requirements:
    - a. Hen yards and coops shall be constructed and maintained to reasonably prevent the collection of standing water; and shall be cleaned of hen droppings, uneaten or discarded feed, feathers, and other waste with such frequency as is necessary to ensure the hen yard and coop do not become nuisances as defined in Title 8, Chapter 4, Section 1 of the Evanston City Code.
    - b. Hens shall be kept in an enclosure which shall be maintained in such a manner so as to protect the hens from predators and trespassers.
    - c. Hen coops shall be built and kept in such a manner so as to allow for easy ingress and egress for the hens and shall offer protection from weather elements including cold temperatures.
    - d. Hen coops and yards shall be large enough to provide at least four (4) feet per hen.
  - 6. Licenses for coops must be obtained and shall meet the rules of this Chapter where applicable.
    - a. Prior to a license being granted to an applicant, the applicant must show proof of notice to all adjacent landowners except landowners that are municipalities or utilities.
    - b. A license shall not be granted unless the applicant has obtained all necessary building permits and can show proof that a hen yard and coop that comply with this Section have been erected.
    - c. Coop licenses shall not run with the land.
    - d. Applications shall be submitted to the City of Evanston Public Health Director who shall have the authority to enforce this Section.
    - e. An applicant who lives in an apartment or condominium building is not eligible to receive a coop license.
    - f. No more than twenty (20) valid coop licenses shall be active within the City of Evanston at any given time for the first calendar year that the ordinance codified in this Section is in effect.
  - 7. No person shall slaughter any hen, or any other animal, within City limits. Nothing in this Section is to be interpreted as prohibiting any establishment that is licensed to slaughter, from slaughtering for food purposes any animals which are specifically raised for food purposes.
  - 8. Any person found to be in violation of this Section shall be fined not less than fifty dollars (\$50.00), nor more than seven hundred fifty dollars (\$750.00) for each offense. In the event that an owner is adjudged to have three (3) violations of this Section, the owner's coop license shall be revoked. Each day an owner is not

compliant with this Section shall constitute a separate offense.

(Ord. No. 43-0-74; Ord. No. 23-0-10, § 1, 9-27-2010; Ord. No. 85-0-10, § 1, 12-13-2010; Ord. No. 8-0-12, (49-0-11(exh. B, § 9-4-5)), 1-23-2012)

**From:** [Joel Frieders](#)  
**To:** [Krysti Barksdale-Noble](#); [Bart Olson](#); [Jackie Milschewski](#)  
**Subject:** Fwd: In favor of chickens  
**Date:** Tuesday, July 7, 2020 6:33:08 PM

---

----- Forwarded message -----

From: a m <[REDACTED]>  
Date: Tue, Jul 7, 2020 at 6:30 PM  
Subject: Re: In favor of chickens  
To: Joel Frieders <[joelfrieders.ward3@gmail.com](mailto:joelfrieders.ward3@gmail.com)>

Joel,

Thank you for asking! I wish more people would be curious about many topics. I appreciate this as a human and a political figure.

Yes, as a former agricultural educator, I helped children learn tangible life lessons with chickens. They learned responsibility, economics and husbandry to name a few. I watched as some students who have autism and struggled with social situations "come out of their shell" around chickens. Chickens offer a glimpse into the birdworld that we cant often have with wild animals, they are a domesticated animal but they do have similar behaviours to some of our wild feathered friends. I have friends who live in areas where chickens are allowed and for them its chance to do micro homesteading, earn a small amount of extra income (usually only enough to buy chicken feed) and reduce their food miles. Chickens also are insectivores they can aid in eating ticks, mosquitos and may other pests that annoy us or carry disease. They themselves cannot get lymes disease so it's a win win.

Please feel free to ask anymore questions and share this information.

April Morris

On Tue, Jul 7, 2020 at 5:47 PM Joel Frieders <[joelfrieders.ward3@gmail.com](mailto:joelfrieders.ward3@gmail.com)> wrote:  
any reasons why you support it?

On Tue, Jul 7, 2020 at 5:06 PM a m <[REDACTED]> wrote:  
Hi I am in favor of backyard chickens here in Yorkville!

--

Joel Frieders  
Alderman, Third Ward  
United City of Yorkville  
800 Game Farm Rd  
Yorkville, IL 60560  
630-992-7516

PLEASE NOTE: I do not email after 5pm CST or on weekends, for the sanctity of my sanity.

--

Joel Frieders

Alderman, Third Ward  
United City of Yorkville  
800 Game Farm Rd  
Yorkville, IL 60560  
630-992-7516

**PLEASE NOTE: I do not email after 5pm CST or on weekends, for the sanctity of my sanity.**

Dear Yorkville City Council,

I appreciate Alderman Funkhouser's efforts bringing the topic of Urban Chickens forward to the council. My family lives on a unique piece of property in town. We own ~1.25 acres between two connected parcels on Main Street. Main Street lets people go back in time surrounded by historic homes and the occasional glimpse of the Fox River. Many of these properties would have maintained chickens and other fowl to provide for those families. Recently, my son found remnants of an old chicken coop in our back woods. Our property offers a unique habitat for chicken and some would say other animals as well.

I had to put some thought into how much I really wanted chickens. Chickens are extra work, the costs take years to recover, and you must take into consideration end of life. We are a busy and expensive family of 7 plus our puppy Leo. However, I know these animals would quickly become family. I think of the unique opportunity it would offer my children and neighboring friends. I think of sustainability in these COVID days. The regular supply of fresh eggs offered by the hens is a great and healthy perk. Chickens also eliminate many nescient pests without spraying chemicals over our properties. They are also substantially quieter than the Route 47 traffic I can hear 4 blocks away.

I hope you continue discussions and find an agreement as you did bringing apiaries into town. No matter the decision, I appreciate you taking the time and consideration as many Illinois towns have over recent years.

Sincerely,

Tim Johnson & Family (DeeDee, Claudia, Dylan, Scarlett, Monreau, Fiona, and Leo)

[REDACTED]



NAME: Scarlett Johnson  
Age: 10

# Chickens

Why I want chickens. I think chickens would be so fun to have and here is why, I would want to feed them because it would be fun to have more animals to love. I think that chickens would be a big responsibility but it would be fun! Chickens seem like they would listen. While being a big responsibility they would be fun and loving. Me and my family would take great care of them. We have a dog and we take great care of him. Chickens seem really fun I would hang out with them and feed them all the time!











Reviewed By:	
Legal	<input checked="" type="checkbox"/>
Finance	<input type="checkbox"/>
Engineer	<input type="checkbox"/>
City Administrator	<input checked="" type="checkbox"/>
Human Resources	<input type="checkbox"/>
Community Development	<input checked="" type="checkbox"/>
Police	<input checked="" type="checkbox"/>
Public Works	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>

Agenda Item Number

Old Business #2

Tracking Number

EDC 2020-42

### Agenda Item Summary Memo

**Title:** Limited Manufacturing Uses in Residence District

**Meeting and Date:** Economic Development Committee – October 6, 2020

**Synopsis:** Discussion regarding permitting limited manufacturing uses, specifically firearm manufacturing, in residentially zoned districts.

#### Council Action Previously Taken:

Date of Action: \_\_\_\_\_ Action Taken: \_\_\_\_\_

Item Number: \_\_\_\_\_

**Type of Vote Required:** \_\_\_\_\_

**Council Action Requested:** Direction

**Submitted by:** Krysti Barksdale-Noble, AICP Community Development  
Name Department

#### Agenda Item Notes:

See attached memo.



# Memorandum

To: Economic Development Committee  
From: Krysti J. Barksdale-Noble, Community Development Director  
CC: Jim Jensen, Chief of Police  
Bart Olson, City Administrator  
Date: September 25, 2020  
Subject: **Limited Manufacturing Uses permitted in Residential Districts**  
Request to allow gun manufacturing as a permitted or special use in residentially zoned districts.

---

## **SUMMARY:**

Staff is seeking direction from the Economic Development Committee regarding a request by Alderman Funkhouser to amend the City's Zoning Ordinance to allow the manufacturing of firearms in residentially zoned districts for homeowners with a Type 7 Federal Firearms License. The proposed options presented by staff include: (1) amend the Zoning Ordinance to allow manufacturing of firearms as a permitted use under the home occupation regulations; (2) amend the Zoning Ordinance to allow manufacturing of firearms as a special use in residentially zoned districts; or (3) maintain the current Zoning Ordinance regulations that manufacturing of firearms is a permitted use only in manufacturing districts.

## **BACKGROUND & RESEARCH:**

At the September 1<sup>st</sup> Economic Development Committee (EDC) meeting staff presented information on the federal regulations for firearm licenses as well as research of other communities on how they regulate firearm dealers/manufacturers. Additionally, Mr. Todd Vandermyde, a resident in Yorkville who currently operates a gun manufacturing business located in the Yorkville Business Center, spoke to the committee about his 30 years' experience in manufacturing of specialized guns and gun parts. Mr. Vandermyde is also looking to relocate his operation into his home garage to reduce the overhead of leasing space. Due to the nature of the work conducted as part of his business, Mr. Vandermyde has a Type 7 Federal Firearms License (FFL) which is for manufacturers of firearms.

At the conclusion of the staff and committee discussion of a potential text amendment to either allow the manufacturing of firearms in residential zoning districts, some EDC members were open to permitting the use as a home occupation while others preferred the business be identified as a special use. Staff was asked to do the following:

1. Verify with the City Attorney if a non-home rule municipality can require a license or registration for firearm manufacturers operating as a home occupation.
2. Create "Home Occupation" standards should the committee decide to list "manufacturing of firearms" under this provision.

## ***Resident's Current Operation***

In addition to the above direction from the EDC at last month's meeting, staff reached out to Mr. Todd Vandermyde on September 17<sup>th</sup> to gather additional information about the current operation he proposes for the home-based gun manufacturing business. Below is a summary of that discussion:

1. Majority of his work is the destruction/disassembling of evidence for police agencies (approx. 80%)
2. Other work includes: stripping, customizing and retail sale of firearms (approx. 20%)
3. Sales of firearms from his business consisted of approximately 300 guns over the past 5 years (about 60 guns annually)

4. Mr. Vandermyde does not have/anticipates a lot of foot traffic since he does not have a showroom and only takes custom orders. Per Federal regulations, he will have people pick-up weapons (transfer) they order on-line from him since he is a licensed manufacture/dealer.
5. He intends to have a video surveillance system and on-site storage will consist of two (2) lock boxes in a 10' x 12' cage. All of which can fit in his basement.

While this is related to Mr. Vandermyde's business operation, it does not mean all Type 7 FFL license holders will operate in this manner. Also, Mr. Vandermyde made reference in his statements to the EDC about the recently adopted state law for firearm dealers known as "Combating Illegal Gun Trafficking Act" which establishes stricter regulations for businesses that sell or transfer firearms. Below is a summary of those restrictions that have may an impact on this discussion.

#### ***"Combating Illegal Gun Trafficking Act" Regulations:***

In January 2019, the State of Illinois passed Public Act 100-1178, referred to as "Combating Illegal Gun Trafficking Act" ("Act"). Effective July 2019, any person who engages in the business of selling, leasing or otherwise transferring firearms in Illinois must have a valid certificate of license. The Act creates a state issued Firearm Dealer License Certification (FDLC), enacts provisions to record and track private sales and establishes safety regulations. Below are highlights of the requirements the Act provides:

- Requirement for video surveillance security systems for certified licensees operating a retail location ("retail" refers to stores open to the public but **does not include home sales**).
- Safe storage of firearms at all times in a retail location ("retail" refers to stores open to the public but **does not include home sales**)
- Restricts retail locations from locating within 500 feet of any existing school, pre-school, or day-care facility ("retail" refers to stores open to the public but **does not include home sales**).
- All certified licensees with an inventory of firearms for sale or transfer must be connected to an alarm monitoring system or service that will notify the local law enforcement agency of an unauthorized intrusion into the premises where the inventory is stored.
- Requirement of licensees to make copies of FOID cards or IDs and attach them to documentation detailing each gun sale.
- Requires licensees and employees of licensees to undergo annual training about the law and responsible business practices.
- Annual inspection of licensees' place of business by the Department of State Police or law enforcement during hours of operation (*unclear if this would apply to home operated businesses*).

While this law impacts retail businesses that sell/transfer firearms, it appears to have limited provisions for firearm sales from a home business with regards to video surveillance, safe storage, locating near existing schools/day-care facilities and potentially annual inspections by state and local law enforcement agencies.

#### ***Alcohol, Tobacco and Firearms (ATF) Regulations:***

In addition to the above listed state regulations, the Bureau of Alcohol, Tobacco and Firearms (ATF) regulates the issuance of federal firearm licenses (FFL). According to the ATF's website, the process for obtaining a firearm license includes the following steps:

1. Complete and mail in an accurate application (ATF Form 7) with the proper licensing fee.
2. The Federal Firearms Licensing Center (FFLC) records the application information and reviews the form for correctness.

3. The FFLC conducts a background check on the "responsible persons".
4. The new license application is sent to a local ATF field office.
5. At the local ATF field office, an Industry Operations Investigator (IOI) will conduct an in-person interview with the applicant.
6. The IOI will check local zoning regulations and state requirements and prepares a report with a recommendation on whether or not the ATF should issue or deny the license to their area supervisor.
7. The area supervisor reviews the report and submits his/her recommendation to the FFLC.
8. Assuming all background checks have been completed and the business is in compliance with state and local law, the FFLC will issue the license.

The entire process takes about 60 days from the time the completed application was first received at the FFLC. After issuance, the firearm license is approved for three (3) years and license holders may be inspected for compliance once a year by the ATF. "There were 134,738 FFLs in fiscal year 2017. This includes firearm licenses for dealers, manufacturers, importers and collectors. During that time, ATF conducted 11,009 firearms compliance inspections. In 2017, less than half of 1% of FFLs were revoked."<sup>1</sup>

"It should be noted, however, that ATF does not revoke for every violation it finds and that revocation actions are seldom initiated until after an FFL has been educated on the requirements of the laws and regulations and given an opportunity to voluntarily comply with them but has failed to do so. Violations commonly cited in revocation cases include failure to account for firearms, failure to verify and document purchaser eligibility, failure to maintain records requisite for successful firearms tracing and failure to report multiple sales of handguns."<sup>2</sup>

The ATF has nine (9) types of Federal Firearm Licenses available as listed below by category and description:

**Dealers:**

- 01 – Dealer in firearms other than destructive devices.
- 02 – Pawnbroker in firearms other than destructive devices.
- 09 – Dealer in destructive devices.

**Manufacturers:**

- 06 – Manufacturer of Ammunition for Firearms Other Than Ammunition for Destructive Devices or Armor Piercing Ammunition.
- 07 – Manufacturer of firearms other than destructive devices.
- 10 – Manufacturer of destructive devices, ammunition for destructive devices or armor piercing ammunition.

**Importer:**

- 08 – Importer of firearms or ammunition for firearms other than destructive devices or ammunition other than armor piercing ammunition.
- 11 – Importer of destructive devices, ammunition for destructive devices or armor piercing ammunition

**Other:**

- 03 – Collector of curios and relics.

---

<sup>1</sup> <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-federal-firearms-compliance-inspections-and-revocation-process>

<sup>2</sup> <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-federal-firearms-compliance-inspections-and-revocation-process>

Since Federal Firearm Licenses are cumulative, federal licensees can also be dealers (sell) of firearms which is a Type 1 license. Therefore, once a firearm license is issued by the ATF, the licensee can engage in any activity permitted within that license. Meaning an FFL Type 7 licensee can decide to shift their business operation to strictly firearm sales without any notification to ATF or local law enforcement.

The Yorkville Police Department also has concerns about increased crime (i.e. theft/robbery) in residential districts if a text amendment for home occupations or special use approval is granted. Currently, the ATF tracks reported Federal Firearms Licensee burglary and robberies (see attached infographic). In 2018 and 2019, there were 153 and 286 firearms stolen during FFL burglaries in Illinois, respectively. However, there were no firearms stolen during FFL robberies in Illinois reported in 2018 or 2019.

### **LOCAL REGISTRATION OF FIREARM MANUFACTURERS:**

Per the EDC's direction, staff consulted with the City Attorney and confirmed that the City has the authority to require registration of firearm manufacturer and/or firearm dealer businesses. This can include businesses that are located in commercial, manufacturing and residential districts. The city can also restrict the registration requirement only for firearm manufacturers and/or firearm dealers operating in residential districts.

If the city did establish a registration for firearm manufacturers/dealers in residential districts, staff would have to rely upon notification of the business by either the Bureau of Alcohol, Firearms and Tobacco (ATF) as part of their due diligence application process or the owner self-reporting to the City. Consideration should be given to staff administration time, what is the expectation of how this information will be used and/or shared with other departments, what information is subject to FOIA and if any fee should be assessed.

### **HOME OCCUPATION REGULATIONS:**

The current Home Occupation regulations are intended to ensure compatibility with other permitted uses while maintaining the residential character of the neighborhood community. Therefore, any gainful activity occurring in the residential district is allowed provided that:

- 1) it's conducted entirely within the home and incidental to the residential use;
- 2) not conducted from a detached or accessory structure and **does not exceed 25% of the floor area of the home;**
- 3) no exterior display or activity indicating the business;
- 4) conducted only by the residence of the home, plus no more than one additional person not living in the home;
- 5) no electrical or mechanical equipment except those customary for domestic/household purposes;
- 6) **does not generate traffic or deliveries beyond what is normally expected in a residential district;** and
- 7) **limited amounts of goods, commodities or stock received, retained, used or stored or transferred from the premises.** Jobbing, wholesale or retail businesses, unless conducted entirely by mail, electronically or telephone, is prohibited.

Additionally, all manufacturing businesses are currently prohibited as a home occupation.

Since home occupations are not issued building permits or inspected by City staff, the adherence to the regulations are via the "honor system". The **bolded** text above indicates the home occupation regulations that are the hardest to verify and/or enforce compliance.

If the Economic Development Committee is inclined to support a text amendment to permit firearm manufacturing and sale as an allowed home occupation, staff would recommend limiting the manufacturing to only firearms and not permit the manufacturing ammunition (FFL Type 6) and/or explosive devices (FFL Type 10). This would be in addition to obtaining all federal, state and local licenses, certifications and/or registration.

#### **ANALYSIS OF PROPOSED OPTIONS:**

Based upon the information provided above, staff has prepared the comparison chart below to illustrate the challenges and concerns a proposed text amendment to permit firearm manufacturing and sale as a home occupation, a special use or to keep the current Zoning Ordinance requirement allowing it only in the manufacturing districts. The circle indicates areas of concern each proposal can address.

	<b>Home Occupation (Amendment)</b>	<b>Special Use in Residential District (Amendment)</b>	<b>Manufacturing Districts (Current)</b>
Ability to effectively regulate increased vehicular traffic and/or parking		○	●
Ability to require security/surveillance systems		●	●
Ability to require local registration of business	●	●	●
Ability to restrict location near existing schools/day-care facilities		●	●
Ability to regulate/limit stock of product on site	○	○	
Regulated by state “Combating Illegal Gun Trafficking Act”	○	○	●
Regulated by federal (ATF) annual compliance inspection	●	●	●
Regulated by annual Illinois Department of State Police compliance inspection	○	○	●

○ Indicates limited ability to regulate or unclear if regulation applies

● Indicates complete ability to regulate

#### **STAFF COMMENTS:**

Upon the conclusion of last month’s EDC meeting, staff conducted additional research of the ATF regulations for firearm licensing and recently adopted Combating Illegal Gun Trafficking Act. Staff also reached out to the owner of the firearm manufacturing business seeking to relocate their business to their home to better understand the operation and its fit in a residential setting. While both the ATF regulations and Gun Trafficking Act have provisions regulating the licensing of firearm businesses the operational regulations seemed more geared towards retail or non-residential locations. Additionally, the Yorkville Police Department expressed concern about increased traffic/parking complaints and accidental discharge (may not be as much of a concern if business operated in a basement) by permitting manufacturing and/or sale of firearms in residential districts which is not a consideration as part of the FFL licensing or Firearm Dealer License Certification approval process.

Although staff has confirmed with the City Attorney the City’s authority to require registration of firearm manufacturers/dealers, **it appears the most effective regulatory tool is permitting firearm manufacturing businesses only in the manufacturing districts.** Staff still has concerns that if the use is permitted as a “home occupation”, even with local registration requirements, inadequate regulations exist to address security, increased traffic, restrict location near schools/day-care facilities, compliance

inspections or regulate/limit stock once the business is operational. While the “special use” process offers additional regulatory options and would be approved on a case-by-case basis, the same limitations on effectively regulating increased traffic, stock kept on premise and/or compliance inspections exist.

**We are seeking formal direction from the Economic Development Committee (EDC) to do one of the following:** (1) pursue a text amendment to identify firearm manufacturing and sale in residentially zoned districts as a home occupation; (2) pursue a text amendment to identify firearm manufacturing and sale in residentially zoned districts as a special use; or (3) take no additional action and keep the current regulations permitting firearm manufacturing and sale in the manufacturing districts.

If it is the concurrence of the Committee to amend, staff and the City Attorney will prepare the appropriate ordinance language per your direction and bring back to the Committee prior to presenting at a public hearing before the Planning and Zoning Commission.

**ATTACHMENTS:**

1. Combating Illegal Gun Trafficking Act (Public Act 100-1178)
2. Bureau of Alcohol, Tobacco and Firearms (ATF) Infographics
  - a. Federal Firearms Licensing Types
  - b. Federal Firearms Application Process
  - c. Federal Firearms Licensee Burglary and Robbery Maps
3. Current Zoning Ordinance Permitted & Special Use Table 10.06.04 Manufacturing Uses
4. Section 10-3-9 Home Occupations with proposed amended language regarding firearm manufacturing



AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

ARTICLE 1. COMBATING ILLEGAL GUN TRAFFICKING ACT

Section 1-1. References to Act. This Act may be referred to as the Combating Illegal Gun Trafficking Act.

ARTICLE 5. FIREARM DEALER LICENSE CERTIFICATION ACT

Section 5-1. Short title. This Article 1 may be cited as the Firearm Dealer License Certification Act. References in this Article to "this Act" mean this Article.

Section 5-5. Definitions. In this Act:

"Certified licensee" means a licensee that has previously certified its license with the Department under this Act.

"Department" means the Department of State Police.

"Director" means the Director of State Police.

"Entity" means any person, firm, corporation, group of individuals, or other legal entity.

"Inventory" means firearms in the possession of an individual or entity for the purpose of sale or transfer.

"License" means a Federal Firearms License authorizing a

person or entity to engage in the business of dealing firearms.

"Licensee" means a person, firm, corporation, or other entity who has been given, and is currently in possession of, a valid Federal Firearms License.

"Retail location" means a store open to the public from which a certified licensee engages in the business of selling, transferring, or facilitating a sale or transfer of a firearm. For purposes of this Act, a gun show or similar event at which a certified licensee engages in business from time to time is not a retail location.

Section 5-10. Copy of Federal Firearms License filed with the Department. Each licensee shall file with the Department a copy of its license, together with a sworn affidavit indicating that the license presented is in fact its license and that the license is valid. The Department may by rule create a process for checking the validity of the license, in lieu of requiring an affidavit. Upon receipt and review by the Department, the Department shall issue a certificate of license to the licensee, allowing the licensee to conduct business within this State. The Department shall issue an initial certificate of license within 30 days of receipt of the copy of license and sworn affidavit. If the Department does not issue the certificate within 30 days, the licensee shall operate as if a certificate has been granted unless and until a denial is issued by the Department.

Section 5-15. Certification requirement.

(a) Beginning 180 days after the effective date of this Act, it is unlawful for a person or entity to engage in the business of selling, leasing, or otherwise transferring firearms without a valid certificate of license issued under this Act. In the event that a person or entity maintains multiple licenses to engage in different lines of business requiring different licenses at one location, then the licenses shall be deemed one license for purposes of certification. In the event that a person or entity maintains multiple licenses to engage in business at multiple locations, under the same business name on the license or a different business name on the license, then each license and location must receive its own certification.

(b) It is unlawful for a person or entity without first being a certified licensee under this Act to act as if he or she is certified under this Act, to advertise, to assume to act as a certified licensee or to use a title implying that the person or entity is engaged in business as a certified licensee without a license certified under this Act.

(c) It is unlawful to obtain or attempt to obtain any certificate of license under this Act by material misstatement or fraudulent misrepresentation. Notwithstanding the provisions of Section 5-85, in addition to any penalty imposed under this Section, any certificate of license obtained under

this Act due to material misstatement or fraudulent misrepresentation shall automatically be revoked.

(d) A person who violates any provision of this Section is guilty of a Class A misdemeanor for a first violation, and a Class 4 felony for a second or subsequent violation.

(e) In addition to any other penalty provided by law, any person or entity who violates any provision of this Section shall pay a civil penalty to the Department in an amount not to exceed \$10,000 for each offense, as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with Sections 5-95 and 5-100.

(f) The Department has the authority and power to investigate any and all unlicensed activity requiring a license certified under this Act.

(g) The civil penalty shall be paid within 90 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(h) In the event the certification of a certified licensee is revoked, it shall be a violation of this Act for the revoked licensee to seek certification of a license held under a different business name, or to re-open as a certified licensee under another business name using the same license or as the same person or entity doing business under a different business

name.

(i) The Department shall require all of the following information from each applicant for certification under this Act:

(1) The name, full business address, and telephone number of the entity. The business address for the entity shall be the complete street address where firearms in the inventory of the entity are regularly stored, shall be located within the State, and may not be a Post Office Box.

(2) All trade, business, or assumed names used by the certified licensee by and under which the certified licensee sells, transfers, or facilitates transfers of firearms.

(3) The type of ownership or operation, such as a partnership, corporation, or sole proprietorship.

(4) The name of the owner or operator of the dealership, including:

(A) if a person, then the name and address of record of the person;

(B) if a partnership, then the name and address of record of each partner and the name of the partnership;

(C) if a corporation, then the name, address of record, and title of each corporate officer and each owner of more than 5% of the corporation, the corporate names by and which the certified licensee sells, transfers, or facilitates transfers of firearms, and

the name of the state of incorporation; and

(D) if a sole proprietorship, then the full name and address of record of the sole proprietor and the name of the business entity.

Section 5-20. Additional licensee requirements.

(a) A certified licensee shall make a photo copy of a buyer's or transferee's valid photo identification card whenever a firearm sale transaction takes place. The photo copy shall be attached to the documentation detailing the record of sale.

(b) A certified licensee shall post in a conspicuous position on the premises where the licensee conducts business a sign that contains the following warning in block letters not less than one inch in height:

"With few exceptions enumerated in the Firearm Owners Identification Card Act, it is unlawful for you to:

(A) store or leave an unsecured firearm in a place where a child can obtain access to it;

(B) sell or transfer your firearm to someone else without receiving approval for the transfer from the Department of State Police, or

(C) fail to report the loss or theft of your firearm to local law enforcement within 72 hours."

This sign shall be created by the Department and made available for printing or downloading from the Department's website.

(c) No retail location established after the effective date of this Act shall be located within 500 feet of any school, pre-school, or day care facility in existence at its location before the retail location is established as measured from the nearest corner of the building holding the retail location to the corner of the school, pre-school, or day care facility building nearest the retail location at the time the retail location seeks licensure.

Section 5-25. Exemptions.

The provisions of this Act related to the certification of a license do not apply to a person or entity that engages in the following activities:

(1) temporary transfers of firearms solely for use at the location or on the premises where the transfer takes place, such as transfers at a shooting range for use at that location;

(2) temporary transfers of firearms solely for use while in the presence of the transferor or transfers for the purposes of firearm safety training by a firearms safety training instructor;

(3) transfers of firearms among immediate family or household members, as "immediate family or household member" is defined in Section 3-2.7-10 of the Unified Code of Corrections, provided that both the transferor and transferee have a currently valid Firearm Owner's



Identification Card; however, this paragraph (3) does not limit the familial gift exemption under paragraph (2) of subsection (a-15) of Section 3 of the Firearm Owners Identification Card Act;

(4) transfers by persons or entities acting under operation of law or a court order;

(5) transfers by persons or entities liquidating all or part of a collection. For purposes of this paragraph (5), "collection" means 2 or more firearms which are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons;

(6) transfers of firearms that have been rendered permanently inoperable to a nonprofit historical society, museum, or institutional collection;

(7) transfers by a law enforcement or corrections agency or a law enforcement or corrections officer acting within the course and scope of his or her official duties;

(8) transfers to a State or local law enforcement agency by a person who has his or her Firearm Owner's Identification Card revoked;

(9) transfers of curios and relics, as defined under federal law, between collectors licensed under subsection (b) of Section 923 of the federal Gun Control Act of 1968;

(10) transfers by a person or entity licensed as an auctioneer under the Auction License Act; or

(11) transfers between a pawnshop and a customer which amount to a bailment. For purposes of this paragraph (11), "bailment" means the act of placing property in the custody and control of another, by agreement in which the holder is responsible for the safekeeping and return of the property.

Section 5-30. Training of certified licensees. Any certified licensee and any employee of a certified licensee who sells or transfers firearms shall receive at least 2 hours of training annually regarding legal requirements and responsible business practices as applicable to the sale or transfer of firearms. The Department may adopt rules regarding continuing education for certified licensees related to legal requirements and responsible business practices regarding the sale or transfer of firearms.

Section 5-35. Inspection of licensees' places of business. Licensees shall have their places of business open for inspection by the Department and law enforcement during all hours of operation involving the selling, leasing, or otherwise transferring of firearms, provided that the Department or law enforcement may conduct no more than one unannounced inspection per business per year without good cause. During an inspection, licensees shall make all records, documents, and firearms accessible for inspection upon the request of the Department or law enforcement agency.

Section 5-40. Qualifications for operation.

(a) Each certified licensee shall submit with each application for certification or renewal an affidavit to the Department stating that each owner, employee, or other agent of the certified licensee who sells or conducts transfers of firearms for the certified licensee is at least 21 years of age, has a currently valid Firearm Owner's Identification Card and, for a renewal, has completed the training required under Section 5-30. The affidavit must also contain the name and Firearm Owner's Identification Card number of each owner, employee, or other agent who sells or conducts transfers of firearms for the certified licensee. If an owner, employee, or other agent of the certified licensee is not otherwise a resident of this State, the certified licensee shall submit an affidavit stating that the owner, employee, or other agent has undergone a background check and is not prohibited from owning or possessing firearms.

(b) In addition to the affidavit required under subsection (a), within 30 days of a new owner, employee, or other agent beginning selling or conducting transfers of firearms for the certified licensee, the certified licensee shall submit an affidavit to the Department stating the date that the new owner, employee, or other agent began selling or conducting transfers of firearms for the certified licensee, and providing the information required in subsection (a) for that new owner,

employee, or other agent.

(c) If a certified licensee has a license, certificate, or permit to sell, lease, transfer, purchase, or possess firearms issued by the federal government or the government of any state revoked or suspended for good cause within the preceding 4 years, the Department may consider revoking or suspending the certified licenses in this State. In making a determination of whether or not to revoke or suspend a certified license in this State, the Department shall consider the number of retail locations the certified licensee or any related person or entity operates in this State or in other states under the same or different business names, and the severity of the infraction in the state in which a license was revoked or suspended.

(d) Applications and affidavits required under this Section are not subject to disclosure by the Department under the Freedom of Information Act.

Section 5-45. Issuance of subpoenas. The Department may subpoena and bring before it any person or entity to take oral or written testimony or may compel the production of any books, papers, records, or any other documents that the Department deems directly relevant or material to an investigation or hearing conducted by the Department in the enforcement of this Act, with the same fees and in the same manner prescribed in civil cases in the courts of this State. The licensee may file an emergency motion with the Director or a hearing officer

authorized by the Department to quash a subpoena issued by the Department. If the Director or hearing officer determines that the subpoena was issued without good cause, the Director or hearing officer may quash the subpoena.

Section 5-50. Security system.

(a) On or before January 2, 2021, each certified licensee operating a retail location in this State must maintain a video security system and shall maintain video surveillance of critical areas of the business premises, including, but not limited to, all places where firearms in inventory are stored, handled, sold, or transferred, and each entrance and exit. A video surveillance system of the certified licensee's retail location may not be installed in a bathroom and may not monitor inside the bathrooms located in the retail location. If a video security system is deemed inadequate by the Department, the licensee shall have 30 days to correct the inadequacy. The Department shall submit to the licensee a written statement describing the specific inadequacies.

(b) Each certified licensee operating a retail establishment in this State must post a sign in a conspicuous place at each entrance to the retail location that states in block letters not less than one inch in height: "THESE PREMISES ARE UNDER VIDEO SURVEILLANCE. YOUR IMAGE MAY BE RECORDED.". This sign shall be created by the Department and available for printing or downloading from the Department's website.



(c) On or before January 2, 2020, each certified licensee maintaining an inventory of firearms for sale or transfer must be connected to an alarm monitoring system or service that will notify its local law enforcement agency of an unauthorized intrusion into the premises of the licensee where the firearm inventory is maintained.

Section 5-55. Safe storage by certified licensees. In addition to adequate locks, exterior lighting, surveillance cameras, alarm systems, and other anti-theft measures and practices, a certified licensee maintaining a retail location shall develop a plan that addresses the safe storage of firearms and ammunition during retail hours and after closing. The certified licensee shall submit its safe storage plan to the Department and the plan shall be deemed approved unless it is rejected by the Department. The Department may reject the plan if it is inadequate, along with a written statement describing the specific inadequacies. The certified licensee shall submit a corrected plan to the Department within 60 days of notice of an inadequate plan. In the event there are still problems with the corrected plan, the Department shall note the specific inadequacies in writing and the certified licensee shall have 60 days from each notice of an inadequate plan to submit a corrected plan. The Department may reject the corrected plan if it is inadequate. A certified licensee may operate at all times that a plan is on file with the

Department, and during times permitted by this Section to prepare and submit corrected plans. That any certified licensee has operated without an approved safe storage plan for more than 60 days shall be grounds for revocation of a certificate of license. The Department shall adopt rules regarding the adequacy of a safe storage plan. The rules shall take into account the various types and sizes of the entities involved, and shall comply with all relevant State and federal laws. Safe storage plans required under this Section are not subject to disclosure by the Department under the Freedom of Information Act.

Section 5-60. Statewide compliance standards. The Department shall develop and implement by rule statewide training standards for assisting certified licensees in recognizing indicators that would lead a reasonable dealer to refuse sale of a firearm, including, but not limited to, indicators of a straw purchase.

Section 5-65. Electronic-based recordkeeping. On or before January 2, 2020, each certified licensee operating a retail location shall implement an electronic-based record system to keep track of its changing inventory by updating the make, model, caliber or gauge, and serial number of each firearm that is received or sold by the certified licensee. Retail sales and purchases shall be recorded within 24 hours of the transaction.

Shipments of firearms from manufacturers or wholesalers shall be recorded upon the earlier of five business days or with 24 hours of the shipment being unpacked and the firearm placed in inventory. Each certified licensee shall maintain these records for a period of no less than the time period under 27 CFR 478.129 or any subsequent law that regulates the retention of records.

Section 5-70. Fees and fines deposited in the Firearm Dealer License Certification Fund. The Department shall set and collect a fee for each licensee certifying under this Act. The fee may not exceed \$300 for a certified licensee operating without a retail location. The fee may not exceed \$1,500 for any certified licensee operating with a retail location. The Department may not charge a certified licensee in this State, operating under the same or different business name, fees exceeding \$40,000 for the certification of multiple licenses. All fees and fines collected under this Act shall be deposited in the Firearm Dealer License Certification Fund which is created in the State treasury. Moneys in the Fund shall be used for implementation and administration of this Act.

Section 5-75. Term of license. Each certification shall be valid for the term of the license being certified. A licensee shall certify each new or renewed license. However, the Department is not required to renew a certification if a prior

certification has been revoked or suspended.

Section 5-80. Retention of records. Each certified licensee shall keep, either in electronic form or hard copy, all acquisition and disposition records for a period of time no less than the time required under 27 CFR 478.129 or any subsequent law that regulates the retention of records. All video surveillance records, along with any sound recordings obtained from them, shall be kept for a period of not less than 90 days.

Section 5-85. Disciplinary sanctions.

(a) For violations of this Act not penalized under Section 5-15, the Department may refuse to renew or restore, or may reprimand, place on probation, suspend, revoke, or take other disciplinary or non-disciplinary action against any licensee, and may impose a fine commensurate with the severity of the violation not to exceed \$10,000 for each violation for any of the following, consistent with the Protection of Lawful Commerce in Arms Act, 15 U.S.C. 7901 through 7903:

(1) Violations of this Act, or any law applicable to the sale or transfer of firearms.

(2) A pattern of practice or other behavior which demonstrates incapacity or incompetency to practice under this Act.

(3) Aiding or assisting another person in violating any

provision of this Act or rules adopted under this Act.

(4) Failing, within 60 days, to provide information in response to a written request made by the Department.

(5) Conviction of, plea of guilty to, or plea of nolo contendere to any crime that disqualifies the person from obtaining a valid Firearm Owner's Identification Card.

(6) Continued practice, although the person has become unfit to practice due to any of the following:

(A) Any circumstance that disqualifies the person from obtaining a valid Firearm Owner's Identification Card or concealed carry license.

(B) Habitual or excessive use or abuse of drugs defined in law as controlled substances, alcohol, or any other substance that results in the inability to practice with reasonable judgment, skill, or safety.

(7) Receiving, directly or indirectly, compensation for any firearms sold or transferred illegally.

(8) Discipline by another United States jurisdiction, foreign nation, or governmental agency, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act.

(9) Violation of any disciplinary order imposed on a licensee by the Department.

(10) A finding by the Department that the licensee, after having his or her certified license placed on probationary status, has violated the terms of probation.

(11) A fraudulent or material misstatement in the completion of an affirmative obligation or inquiry by law enforcement.

(b) All fines imposed under this Section shall be paid within 90 days after the effective date of the final order imposing the fine.

Section 5-90. Statute of limitations. No action may be taken under this Act against a person or entity certified under this Act unless the action is commenced within 5 years after the occurrence of the alleged violations. A continuing violation shall be deemed to have occurred on the date when the circumstances last existed that give rise to the alleged violation.

Section 5-95. Complaints; investigations; hearings.

(a) The Department may investigate the actions of any applicant or of any person or persons holding or claiming to hold a license or registration under this Act.

(b) The Department shall, before disciplining a licensee under Section 5-85 or refusing to issue a certificate of license, at least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges under oath within 20 days after service, and (iii) inform the licensee



that failure to answer will result in a default being entered against the licensee.

(c) At the time and place fixed in the notice, the Director or the hearing officer appointed by the Director shall proceed to hear the charges, and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Director or hearing officer may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his, her, or its license may, in the discretion of the Director, having first received the recommendation of the Director, be suspended, revoked, or placed on probationary status, or be subject to whatever disciplinary action the Director considers proper, including limiting the scope, nature, or extent of the person's business, or the imposition of a fine, without hearing, if the act or acts charged constitute sufficient grounds for that action under this Act.

(d) The written notice and any notice in the subsequent proceeding may be served by certified mail to the licensee's address of record.

(e) The Director has the authority to appoint any attorney licensed to practice law in this State to serve as the hearing officer in any action for refusal to issue, restore, or renew a license, or to discipline a licensee. The hearing officer has full authority to conduct the hearing.

Section 5-100. Hearing; rehearing.

(a) The Director or the hearing officer authorized by the Department shall hear evidence in support of the formal charges and evidence produced by the licensee. At the conclusion of the hearing, the Director shall prepare a written report of his or her findings of fact, conclusions of law, and recommendations. The report shall contain a finding of whether the accused person violated this Act or failed to comply with the conditions required in this Act.

(b) At the conclusion of the hearing, a copy of the Director's or hearing officer's report shall be served upon the licensee by the Department, either personally or as provided in this Act, for the service of a notice of hearing. Within 20 calendar days after service, the licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20 calendar days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or upon denial of a motion for rehearing, the Director may enter an order in accordance with his or her recommendations or the recommendations of the hearing officer. If the licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the

licensee.

(c) All proceedings under this Section are matters of public record and shall be preserved.

(d) The licensee may continue to operate during the course of an investigation or hearing, unless the Director finds that the public interest, safety, or welfare requires an emergency action.

(e) Upon the suspension or revocation of a certificate of license, the licensee shall surrender the certificate to the Department and, upon failure to do so, the Department shall seize the same. However, when the certification of a certified licensee is suspended, the certified licensee shall not operate as a certified licensee during the period in which the certificate is suspended and, if operating during that period, shall be operating in violation of subsection (a) of Section 5-15 of this Act. A person who violates this Section is guilty of a Class A misdemeanor for a first violation, and a Class 4 felony for a second or subsequent violation. In addition to any other penalty provided by law, any person or entity who violates this Section shall pay a civil penalty to the Department in an amount not to exceed \$2,500 for the first violation, and a fine not to exceed \$5,000 for a second or subsequent violation.

Section 5-105. Restoration of certificate of license after disciplinary proceedings. At any time after the successful

completion of a term of probation, suspension, or revocation of a certificate of license, the Department may restore it to the licensee, unless, after an investigation and a hearing, the Director determines that restoration is not in the public interest. No person or entity whose certificate of license, card, or authority has been revoked as authorized in this Act may apply for restoration of that certificate of license, card, or authority until such time as provided for in the Civil Administrative Code of Illinois.

Section 5-110. Administrative review. All final administrative decisions of the Department are subject to judicial review under Article III of the Code of Civil Procedure. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. The proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of this State, the venue shall be in Sangamon County. The Department shall not be required to certify any record to the court, or file any answer in court, or otherwise appear in any court in a judicial review proceeding, unless, and until, the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Exhibits shall be certified without cost. Failure on the part of the applicant or licensee to file a receipt in court is

grounds for dismissal of the action.

Section 5-115. Prima facie proof.

(a) An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Director, is prima facie proof that the signature is that of the Director, and the Director is qualified to act.

(b) A certified copy of a record of the Department shall, without further proof, be admitted into evidence in any legal proceeding, and shall be prima facie correct and prima facie evidence of the information contained therein.

Section 5-120. Federal agencies and investigations. Nothing in this Act shall be construed to interfere with any federal agency or any federal agency investigation. All Department rules adopted under this Act shall comply with federal law. The Department may as necessary coordinate efforts with relevant State and federal law enforcement agencies to enforce this Act.

ARTICLE 10. GUN TRAFFICKING INFORMATION ACT

Section 10-1. Short title. This Article 5 may be cited as the Gun Trafficking Information Act. References in this Article to "this Act" mean this Article.

Section 10-5. Gun trafficking information.

(a) The Department of State Police shall use all reasonable efforts in making publicly available, on a regular and ongoing basis, key information related to firearms used in the commission of crimes in this State, including, but not limited to: reports on crimes committed with firearms, locations where the crimes occurred, the number of persons killed or injured in the commission of the crimes, the state where the firearms used originated, the Federal Firearms Licensee that sold the firearm, and the type of firearms used. The Department shall make the information available on its website, in addition to electronically filing a report with the Governor and the General Assembly. The report to the General Assembly shall be filed with the Clerk of the House of Representatives and the Secretary of the Senate in electronic form only, in the manner that the Clerk and the Secretary shall direct.

(b) The Department shall study, on a regular and ongoing basis, and compile reports on the number of Firearm Owner's Identification Card checks to determine firearms trafficking or straw purchase patterns. The Department shall, to the extent not inconsistent with law, share such reports and underlying data with academic centers, foundations, and law enforcement agencies studying firearms trafficking, provided that personally identifying information is protected. For purposes of this subsection (b), a Firearm Owner's Identification Card number is not personally identifying information, provided



that no other personal information of the card holder is attached to the record. The Department may create and attach an alternate unique identifying number to each Firearm Owner's Identification Card number, instead of releasing the Firearm Owner's Identification Card number itself.

(c) Each department, office, division, and agency of this State shall, to the extent not inconsistent with law, cooperate fully with the Department and furnish the Department with all relevant information and assistance on a timely basis as is necessary to accomplish the purpose of this Act. The Illinois Criminal Justice Information Authority shall submit the information required in subsection (a) of this Section to the Department of State Police, and any other information as the Department may request, to assist the Department in carrying out its duties under this Act.

#### ARTICLE 15. AMENDATORY PROVISIONS

Section 15-3. The State Finance Act is amended by adding Section 5.886 as follows:

(30 ILCS 105/5.886 new)

Sec. 5.886. The Firearm Dealer License Certification Fund.

Section 15-5. The Firearm Owners Identification Card Act is amended by changing Section 3 as follows:

(430 ILCS 65/3) (from Ch. 38, par. 83-3)

Sec. 3. (a) Except as provided in Section 3a, no person may knowingly transfer, or cause to be transferred, any firearm, firearm ammunition, stun gun, or taser to any person within this State unless the transferee with whom he deals displays either: (1) a currently valid Firearm Owner's Identification Card which has previously been issued in his or her name by the Department of State Police under the provisions of this Act; or (2) a currently valid license to carry a concealed firearm which has previously been issued in his or her name by the Department of State Police under the Firearm Concealed Carry Act. In addition, all firearm, stun gun, and taser transfers by federally licensed firearm dealers are subject to Section 3.1.

(a-5) Any person who is not a federally licensed firearm dealer and who desires to transfer or sell a firearm while that person is on the grounds of a gun show must, before selling or transferring the firearm, request the Department of State Police to conduct a background check on the prospective recipient of the firearm in accordance with Section 3.1.

(a-10) Notwithstanding item (2) of subsection (a) of this Section, any person who is not a federally licensed firearm dealer and who desires to transfer or sell a firearm or firearms to any person who is not a federally licensed firearm dealer shall, before selling or transferring the firearms, contact the Department of State Police with the transferee's or

purchaser's Firearm Owner's Identification Card number to determine the validity of the transferee's or purchaser's Firearm Owner's Identification Card. This subsection shall not be effective until January 1, 2014. The Department of State Police may adopt rules concerning the implementation of this subsection. The Department of State Police shall provide the seller or transferor an approval number if the purchaser's Firearm Owner's Identification Card is valid. Approvals issued by the Department for the purchase of a firearm pursuant to this subsection are valid for 30 days from the date of issue.

(a-15) The provisions of subsection (a-10) of this Section do not apply to:

(1) transfers that occur at the place of business of a federally licensed firearm dealer, if the federally licensed firearm dealer conducts a background check on the prospective recipient of the firearm in accordance with Section 3.1 of this Act and follows all other applicable federal, State, and local laws as if he or she were the seller or transferor of the firearm, although the dealer is not required to accept the firearm into his or her inventory. The purchaser or transferee may be required by the federally licensed firearm dealer to pay a fee not to exceed \$10 per firearm, which the dealer may retain as compensation for performing the functions required under this paragraph, plus the applicable fees authorized by Section 3.1;

(2) transfers as a bona fide gift to the transferor's husband, wife, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, nephew, niece, uncle, aunt, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, or daughter-in-law;

(3) transfers by persons acting pursuant to operation of law or a court order;

(4) transfers on the grounds of a gun show under subsection (a-5) of this Section;

(5) the delivery of a firearm by its owner to a gunsmith for service or repair, the return of the firearm to its owner by the gunsmith, or the delivery of a firearm by a gunsmith to a federally licensed firearms dealer for service or repair and the return of the firearm to the gunsmith;

(6) temporary transfers that occur while in the home of the unlicensed transferee, if the unlicensed transferee is not otherwise prohibited from possessing firearms and the unlicensed transferee reasonably believes that possession of the firearm is necessary to prevent imminent death or great bodily harm to the unlicensed transferee;

(7) transfers to a law enforcement or corrections agency or a law enforcement or corrections officer acting within the course and scope of his or her official duties;

(8) transfers of firearms that have been rendered

permanently inoperable to a nonprofit historical society, museum, or institutional collection; and

(9) transfers to a person who is exempt from the requirement of possessing a Firearm Owner's Identification Card under Section 2 of this Act.

(a-20) The Department of State Police shall develop an Internet-based system for individuals to determine the validity of a Firearm Owner's Identification Card prior to the sale or transfer of a firearm. The Department shall have the Internet-based system completed and available for use by July 1, 2015. The Department shall adopt rules not inconsistent with this Section to implement this system.

(b) Any person within this State who transfers or causes to be transferred any firearm, stun gun, or taser shall keep a record of such transfer for a period of 10 years from the date of transfer. Such record shall contain the date of the transfer; the description, serial number or other information identifying the firearm, stun gun, or taser if no serial number is available; and, if the transfer was completed within this State, the transferee's Firearm Owner's Identification Card number and any approval number or documentation provided by the Department of State Police pursuant to subsection (a-10) of this Section; if the transfer was not completed within this State, the record shall contain the name and address of the transferee. On or after January 1, 2006, the record shall contain the date of application for transfer of the firearm. On

demand of a peace officer such transferor shall produce for inspection such record of transfer. If the transfer or sale took place at a gun show, the record shall include the unique identification number. Failure to record the unique identification number or approval number is a petty offense. For transfers of a firearm, stun gun, or taser made on or after the effective date of this amendatory Act of the 100th General Assembly, failure by the private seller to maintain the transfer records in accordance with this Section is a Class A misdemeanor for the first offense and a Class 4 felony for a second or subsequent offense. A transferee shall not be criminally liable under this Section provided that he or she provides the Department of State Police with the transfer records in accordance with procedures established by the Department. The Department shall establish, by rule, a standard form on its website.

(b-5) Any resident may purchase ammunition from a person within or outside of Illinois if shipment is by United States mail or by a private express carrier authorized by federal law to ship ammunition. Any resident purchasing ammunition within or outside the State of Illinois must provide the seller with a copy of his or her valid Firearm Owner's Identification Card or valid concealed carry license and either his or her Illinois driver's license or Illinois State Identification Card prior to the shipment of the ammunition. The ammunition may be shipped only to an address on either of those 2 documents.



(c) The provisions of this Section regarding the transfer of firearm ammunition shall not apply to those persons specified in paragraph (b) of Section 2 of this Act.

(Source: P.A. 98-508, eff. 8-19-13; 99-29, eff. 7-10-15.)

#### ARTICLE 20. SEVERABILITY

Section 20-97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.



# Types of Federal Firearms Licenses (FFLs)

## WHAT IS AN FFL?

An individual who is licensed to engage in the business of manufacturing, importing and/or dealing in firearms. Persons must be licensed by ATF to engage in the business of firearms.

## TYPES OF FFLs



### Dealer

01

Dealer in firearms other than destructive devices

02

Pawnbroker in firearms other than destructive devices

09

Dealer in destructive devices

Other

03

Collector of curios and relics



### Manufacturer

06

Manufacturer of ammunition for firearms other than ammunition for destructive devices or armor piercing ammunition

07

Manufacturer of firearms other than destructive devices

10

Manufacturer of destructive devices, ammunition for destructive devices or armor piercing ammunition



### Importer

08

Importer of firearms or ammunition for firearms other than destructive devices or ammunition other than armor piercing ammunition

11

Importer of destructive devices, ammunition for destructive devices or armor piercing ammunition





# HOW TO BECOME A FEDERAL FIREARMS LICENSEE

## In 10 Easy Steps

Published by ATF on Mar. 22 2016



Decide to become  
a FFL.



Request the  
required forms  
from ATF.gov.



Instructions can be  
found here.



Complete & mail in an  
accurate application  
(ATF Form-7) with  
licensing fee to  
address on form.



The new license  
application is sent to  
your local ATF field  
office.



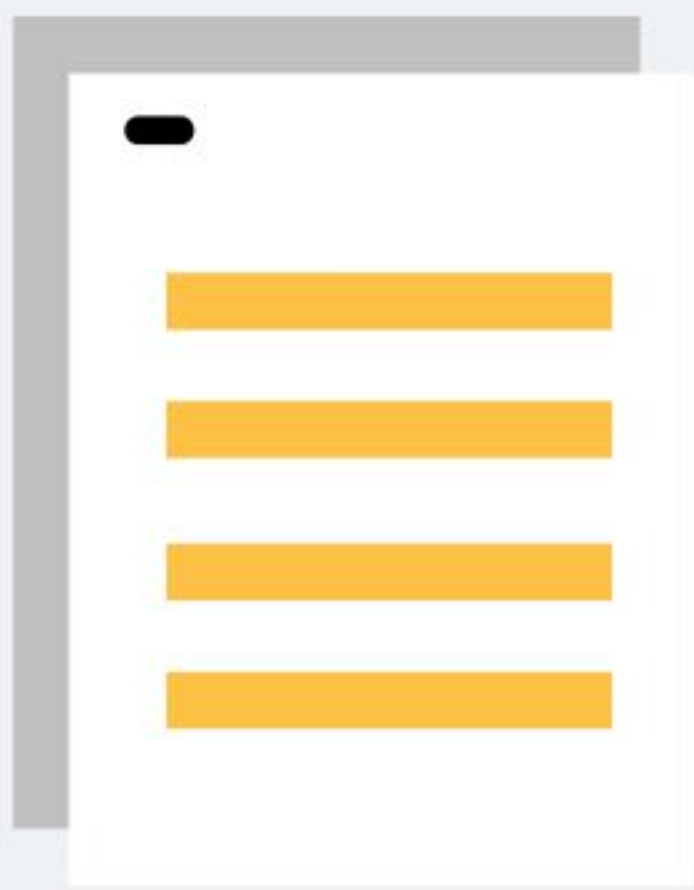
The FFLC conducts a  
background check on  
the "responsible  
persons."



Federal Firearms  
Licensing Center (FFLC)  
records the application  
information & reviews  
for correctness.



An Industry Operations  
Investigator (IOI)  
conducts an in-person  
interview with you.



The IOI prepares their  
report & makes a  
recommendation to  
issue or deny the license  
to the area supervisor.



The area supervisor  
reviews the report &  
submits his/her  
recommendation to  
the FFLC.



The entire process takes  
about 60 days from the  
time your correct  
application was 1st  
received.



Assuming all background checks have  
been completed & your business is in  
compliance with state & local law, the  
FFLC will issue the license.

[Learn more about the FFL Application Process here.](#)





1. Appurtenant to wholesale.

(Ord. 2014-73, 11-25-2014; amd. Ord. 2015-32, 6-9-2015; Ord. 2015-33, 6-9-2015; Ord. 2016-35, 4-26-2016; Ord. 2017-02, 1-24-2017; Ord. 2017-32, 5-23-2017; Ord. 2019-08, 1-29-2019; Ord. 2019-13, 2-26-2019)

TABLE 10.06.04  
MANUFACTURING USES

[illegible]

### 10-3-9: HOME OCCUPATIONS:

The standards for home occupations are intended to ensure compatibility with other permitted uses and maintain the residential character of the surrounding residential uses. Any gainful activity which is not a permitted home occupation as defined in this zoning ordinance shall be considered a business use and is prohibited in a residence district. Any such use existing on the effective date of this zoning ordinance shall be subject to provisions of [chapter 15](#) of this title for the elimination of nonconforming use.

In all residence districts, any customary home occupation shall be permitted provided that:

- A. It is conducted entirely within the dwelling by the residents of the dwelling and when such home occupation is clearly incidental and secondary to the use of the dwelling for residential purposes.
- B. It is not conducted from a detached or attached accessory building, or require internal or external alteration, or involve construction features or use of equipment not customary in a dwelling, and the entrance to the space devoted to such occupation shall be from within the dwelling, and not more than twenty five percent (25%) of the floor area, including the lookout basement, of the dwelling shall be devoted to such home occupation. If more than one home occupation is operated in a residence, the combined total square footage devoted to all such home occupation shall not exceed twenty five percent (25%) of the floor area of the dwelling.
- C. There is no display or activity that will indicate from the exterior of the dwelling that it is being used in part for any use other than a dwelling, except one nameplate, no more than one square foot in area, which contains only the name of the occupant of the dwelling and the home occupation conducted therein and is attached to the dwelling and not illuminated.
- D. It is conducted only by the residents of the dwelling, plus only one additional person not living on the premises.
- E. No electrical or mechanical equipment is used, except such as is customarily used for purely domestic or household purposes.
- F. The home occupation shall not generate traffic or deliveries beyond what is normally expected in the zoning district in which it is located and off street parking for the occupational use shall be in accordance with the provisions of [chapter 16](#), "Off Street Parking And Loading", of this title.
- G. Limited amounts of goods, commodities or stock in trade shall be received, retained, used or stored on, or physically transferred from the premises. Jobbing, wholesale or retail businesses, unless conducted entirely by mail, electronically or telephone, is prohibited.
- H. Teaching of musical instruments and dancing shall be conducted only in a single-family detached dwelling and then to not more than two (2) pupils at one time, and academic or religious instructions may be given to not more than six (6) pupils at one time in a single-family detached dwelling, and not more than one pupil at one time in any other type dwelling unit.



I. No permitted home occupation(s) shall interfere with the reasonable use and enjoyment of adjacent residential properties, such as, but not limited to, those home occupations that create any form of electromagnetic interference or cause fluctuation in line voltage outside of the dwelling in which the home occupation is conducted.

J. The home occupation does not generate any solid waste or sewage discharge in a volume or type which is not normally associated with a residential use in the zoning district.

K. The home occupation does not involve any illegal activity.

L. In home daycare/childcare services are permitted as home occupations subject to the following provisions:

1. Any person operating an in home daycare/childcare service is required to obtain a license from the Illinois department of children and family services before commencing the operation of such service.
2. Any person operating an in home daycare/childcare service is also required to obtain an operational permit from the Bristol Kendall fire district.
3. In home daycare/childcare services are limited to no more than twelve (12) children under the age of twelve (12) at any one time, or obtain special use permit approval for additional children pursuant to [chapter 6](#) of this title.

M. **Firearm sale and manufacturing, provided that the homeowner has obtained: a federal firearms license and a firearm dealer license certification from the State of Illinois. Manufacturing of ammunition for retail sales shall be prohibited.**

N. The following home occupations are prohibited:

1. Manufacturing business;
2. Medical clinic or hospital;
3. Animal hospital or kennel (animal grooming services are permitted);
4. Restaurant;
5. Mortuary and funeral parlors;
6. Any activity that produces noxious matter or employs or produces flammable matter or is in violation of section [10-3-10](#) of this chapter. (Ord. 2014-73, 11-25-2014)