



City of Harrisonburg, Virginia

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To: Kurt Hodgen, City Manager
From: Department of Planning and Community Development
Planning Commission
Date: May 2, 2016
Re: Proposed Chicken Ordinance Amendments

Summary:

Consider the proposed revisions to Section 15-2-24 Fowl, Chickens and other Domestic Birds (commonly referred to as the Chicken Ordinance).

Background:

During City Council's September 22, 2015 regular meeting, City Council briefly discussed whether the regulations within City Code Section 15-2-24 Fowl, Chicken and other Domestic Birds—commonly referred to as the “chicken ordinance”—should be revisited and potentially amended. At the end of the discussion, City Council decided to refer this matter to Community Development and Planning Commission (PC) for review. Issues that City Council noted they wanted to explore included: whether the lot size threshold should be reduced; if there should be a “neighbor’s approval” added to the permit process; to explore whether a certain number of permits should be allowed within an implemented trial period; and other options that might not have been discussed during the 2009 debate on this matter.

At the October 14, 2015 regular PC meeting the group discussed how to move forward with becoming fully informed about the ordinance and generally about backyard chicken issues. Eventually PC requested for staff to provide the packet of information that was provided to PC in 2009 when the existing ordinance was discussed and approved. PC also requested for someone considered to be an expert on the topic of avian influenza to come and speak to the group.

During the January 13, 2016 regular PC meeting, Dr. Don Hopson, Regional State Veterinary Supervisor, with the Virginia Department of Agriculture and Consumer Services (VDACS), spoke to the group about avian influenza. After Dr. Hopson's presentation, a brief discussion occurred related to the virus and generally about backyard chickens. At the end of the discussion, PC decided to further explore the chicken ordinance at their February 10, 2016 regular meeting by taking public input on the specific talking points that City Council requested for PC to consider.

On February 10, 2016, PC held the public input session. For the meeting the Virginia Poultry Federation submitted several comments, one of which included a suggestion to prohibit chickens on properties that were within 1,000 feet of particular poultry facilities. After receiving input from the public and discussing the issue further, at the end of the meeting PC decided for staff to draft amendments to the ordinance based on the following points:

- to eliminate the 2 acre minimum requirement for individuals wanting to keep chickens and thus have no minimum lot size requirement;

- to not require a neighbor waiver;
- to not have a trial period for a certain number of permits;
- to reduce the existing 25-foot setback;
- to prohibit property owners from keeping chickens if their property was within a certain distance from the facilities noted by the Virginia Poultry Federation; and
- to accept the recommendation from the Stormwater Advisory Committee that included for chicken pens to be setback 20 feet from streams, tributaries, ditches, swales, stormwater management facilities, or other storm drainage areas.

For the March 9, 2016 regular meeting, staff prepared the draft ordinance per the recommendations of PC and proposed a few other minor modifications. Staff also provided additional miscellaneous information as well as maps to assist in understanding the impact of the proposed setbacks and the buffer area requested by the Virginia Poultry Federation. At the end of the March meeting, PC requested a few other changes to the ordinance, which staff then presented to PC on April 13th.

The changes presented in April included: 1) that chickens shall not be permitted on any parcel of land that is within 500 feet or less from any poultry processing plant, poultry hatchery, poultry feed mill, poultry truck lot, poultry farm, or from property where facilities are operated by the Virginia Department of Agriculture and Consumer Services (VDACS); and that if any portion of a parcel is located in the prohibited 500-foot buffer from the noted properties, no chickens shall be kept on that parcel; 2) that chicken pens shall be located in the rear yard and to be no closer than five feet from any parcel line; and 3) that all unexplained bird deaths shall be reported to VDACS prior to burial or transport to the county landfill.

Staff also explained the communication that was had with the Department of Environmental Quality (DEQ) regarding burial of dead chickens. DEQ noted that our proposed regulations would not conflict with their requirements as they noted that there are no regulations associated with burying pets and that there are no regulations prohibiting routine poultry disposal for routine poultry mortality.

As one will read in the minutes from the April PC meeting, between the PC meeting and the May 10th City Council meeting, staff was to finalize the proposed changes regarding the disposal of chicken litter. The final changes are reflected in the proposed amendment document.

Minutes from all of the meetings discussed above are attached herein.

Key Issues:

The comprehensive changes that PC has recommended be adopted are demonstrated within the document titled “FINAL Draft Amendment Document 15-2-24.”

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

Do not recommend the revisions as discussed and maintain the existing ordinance.

Community Engagement:

On February 10, 2016, Planning Commission held a public input session. To promote the event, city staff sent a press release to different media sources informing members of the community where and when they could provide public input. In addition, a discussion topic regarding the chicken ordinance was created on the “Be Heard Harrisonburg” website.

Recommendation:

Planning staff has maintained a neutral position throughout this process and has not offered recommendations on whether the proposed changes should be approved or not. Staff has served as a resource to answer questions regarding implementation of the ordinance from a land use perspective.

Attachments:

1. Extract. (4 pages)
2. FINAL Draft Amendment Document 15-2-24. (3 pages)
3. Revised Application to Keep Chickens. (1 page)
4. Minutes from each of the recent Planning Commission meetings regarding the proposed changes to the ordinance. (34 pages)
5. Educational resources from USDA regarding the keeping of backyard chickens. (8 pages)
6. Map demonstrating the areas in which chicken keeping would be prohibited per the proposed 500-foot buffer from any of the facilities noted by the Virginia Poultry Federation. (1 page)
7. Diagrams illustrating the proposed 5-foot chicken pen setback. (3 pages)

Review:

Planning Commission unanimously (7-0) recommended the proposed changes, as presented by staff, be forwarded to City Council, with flexibility on the litter element within sub section 8.