



# City of Harrisonburg, Virginia

## Planning Commission Meeting

February 10, 2016

7:00 p.m.

Regular Meeting  
409 South Main Street

- 1) **Call to order, roll call, determination of quorum, and review/approval of minutes from the January 13, 2016 regular meeting.**
- 2) **New Business**  
*None.*
- 3) **Unfinished Business**  
*None.*
- 4) **Public Input**
- 5) **Report of secretary and committees**  
*Proactive Zoning*
- 6) **Other Matters**  
*Public Comment and Discussion Regarding Revisions to Section 15-2-24 Fowl, Chickens and other Domestic Birds (commonly referred to as the Chicken Ordinance)*  
*Review Harrisonburg Planning Commission 2015 Annual Report*  
*Review Planning and Zoning Division 2015 Report of Annual Activity*
- 7) **Adjournment**

Staff will be available Tuesday March 8, 2016 at 4:30 p.m. for those interested in going on a field trip to view the sites for the March 9, 2016 agenda.

**MINUTES OF HARRISONBURG PLANNING COMMISSION**  
**January 13, 2016**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, January 13, 2016 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh; Gil Colman; MuAwia Da'Mes; Judith Dilts; Deb Fitzgerald, Chair; Jefferson Heatwole; and Henry Way, Vice Chair.

Members absent: None.

Also present: Adam Fletcher, Director of Planning and Community Development; and Alison Banks, Senior Planner/Secretary.

Mr. Fletcher opened the regular meeting of the Planning Commission and called for nominations for Chair of the Planning Commission for 2016.

Mr. Way nominated Deb Fitzgerald for Chair. Dr. Dilts seconded the nomination and moved to close the nominations for Chair.

All voted in favor of Deb Fitzgerald as Chair of the 2016 Planning Commission.

Chair Fitzgerald then opened nominations for 2016 Vice Chair.

Mr. Heatwole nominated Henry Way for Vice Chair. Dr. Dilts seconded the nomination and moved to close the nominations for Vice Chair.

All voted in favor of Henry Way as Vice Chair of the 2016 Planning Commission.

Chair Fitzgerald asked for nominations for Secretary of the 2016 Planning Commission.

Mr. Da'Mes nominated Alison Banks as Secretary. Dr. Dilts seconded the nominations and moved to close the nominations for Secretary.

All voted in favor of Alison Banks as Secretary of the 2016 Planning Commission.

Chair Fitzgerald called the meeting to order and said there was a quorum with all members in attendance. She then asked if there were any corrections, comments, or a motion regarding the December 2015 Planning Commission minutes.

Dr. Dilts moved to approve the minutes as presented.

Mr. Colman seconded the motion.

All members voted in favor of approving the December 2015 minutes as presented (7-0).

***Public School Off-Street Parking Approval Requests – Garbers Church Road Elementary School and Pre-Kindergarten Learning Center along Linda Lane***

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said Harrisonburg City Public Schools (HCPS) currently has two projects in review through the City's Comprehensive Site Plan Review, they are: the Garbers Church Road Elementary School and the Pre-Kindergarten Learning Center. As part of the review, they must receive approval of their parking plan, per Section 10-3-25(12) of the Zoning Ordinance (ZO), for both facilities. The process includes for HCPS to determine the amount of parking they feel

is adequate for their site based on division and state agency recommendations and then Planning Commission must review, and if confident that enough parking has been proposed, approve the off-street parking plan so that it is considered in compliance with the ZO.

The new elementary school site is situated on 10.8 +/- acres of R-1, Single Family Residential property located along Garbers Church Road, across the street from the athletic facilities at Harrisonburg High School. Parking is proposed throughout the site, with a majority of the spaces situated to the north of the building. There are 135 parking spaces shown on the site plan, with a separate entrance and drop-off area for school buses. HCPS state that approximately 120 staff members will be employed at the school; but not all would be in the building at the same time.

The Pre-Kindergarten Learning Center will be located along Linda Lane on the Smithland Elementary School/Skyline Middle School property, situated adjacent to the elementary school side of the building. The facility is estimated to have a staff of 28; however, as noted above for the elementary school, not everyone would be in the building everyday or at the same time throughout the day. For this facility, no new parking is proposed and all employees and visitors will park in the existing 150 parking spaces provided for the elementary school. The existing elementary school parking lot is consistently at 50 percent capacity on a daily basis. The entire elementary/middle school complex has a total of 334 parking spaces on site.

Staff has no concerns with either proposal and supports the parking plan for both projects.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Da'Mes said can you explain the difference in the parking lot landscaping for the two sites.

Mrs. Banks said the new elementary school on Garbers Church Road meets all the landscaping regulations such as street trees, landscaping islands, and no more than 12 parking spaces in a row without an island; therefore, you see much more landscaping. The Early Learning Center is not providing any new parking and because Smithland Elementary was constructed prior to the new landscaping regulations, no new landscaping is required.

Mr. Da'Mes said if an existing business was looking to expand their square footage and occupancy, would we require that they meet the landscaping regulations?

Mrs. Banks said that would depend. If the addition would require new parking be installed on the site, then the new parking area must meet all the requirements of the landscaping regulations; as well, they would be required to install street trees if the landscaping border between the front property line and parking area is five feet or greater. If the area proposed for new parking is an area that is already graveled, just not paved or marked for parking, that area could be paved and striped for parking and not have to meet the requirements of the landscaping regulations.

Mr. Fletcher said you may recall the amendment this body approved in March of last year that clarified just that scenario – anytime you add parking to an existing parking area you only need to meet landscaping that is proportionate to the new parking. Further, we treat all private and public developments equal.

Chair Fitzgerald asked if there was anything further.

Mr. Colman moved to approve the parking requests for the Garbers Church Road Elementary School and the Pr-Kindergarten Learning Center along Linda Lane as presented by staff.

Mr. Heatwole seconded the motion to approve.

Chair Fitzgerald asked if there was any further discussion. Hearing none, she called for a voice vote on the motion.

All voted in favor to approve the parking requests as presented (7-0).

***Special Use Permit – 680 North Liberty Street (Section 10-3-40 (7) Increased Occupancy)***

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office/service uses allowing people to both live and work in the same area, which could be combined in the same building or on the same street. The gross residential density in areas outside downtown should not exceed an average of 15 units per acre, though all types of residential units are permitted: single family detached, single family attached and apartments. Apartments are permitted only if single family detached and/or attached units are also provided and together cover a greater percentage of the project site. Residential densities in downtown may be higher than an average of 15 units per acre, and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

The following land uses are located on and adjacent to the property:

- Site: Single-family dwelling, zoned R-2
- North: Single-family dwellings, zoned R-2
- East: Single-family dwelling and industrial uses (George’s Food LLC), zoned M-1
- South: Vacant lots and multi-tenant dwelling, zoned R-2
- West: Across North Liberty Street, single-family and multi-family dwellings, zoned R-2

The applicants are requesting a special use permit (SUP) per Section 10-3-40 (7) of the Zoning Ordinance to allow occupancy of up to four persons within a single-family detached dwelling, zoned R-2, Residential District, located in the 600 block of North Liberty Street. The property is located on the east side of North Liberty Street between Kratzer Avenue and West Washington Street. If approved, one off-street parking space per tenant must be provided.

The R-2 zoning district shares the same occupancy restrictions as the R-1, Single Family Residential District. Owner-occupied single-family dwellings may include rental of space for occupancy by not more than two persons. Nonowner-occupied single-family dwellings may include rental of space for occupancy by not more than one person. In other words, when a unit is nonowner-occupied, by-right, property owners can rent to a family (regardless of the number of individuals in the family) plus one other person or they may rent to two boarders.

This block of North Liberty Street is a mix of single-family and multi-tenant residential uses, both, owner occupied and non-owner occupied; as well, there are commercial parking lots and parking lot entrances along this section of the street. The rear of the property is adjacent to M-1,

General Industrial District zoning and currently serves as parking and storage for George's Food. The Comprehensive Plan designates the subject parcel as Mixed Use Development. This designation most closely aligns with the B-1, Central Business District which allows by right occupancy of four persons.

The applicants stated the property was purchased as an investment and do not reside in the dwelling. If approved, they intend to rent the four bedroom house, on a per bedroom basis, as affordable housing for single residents. Four off-street parking spaces, one per tenant, would be required if the SUP is approved. The parcel has an existing large parking area in the rear, which can accommodate the required four parking spaces.

Staff does not believe approving the request will have negative impacts to the surrounding neighborhood and supports the applicant's request.

Mrs. Banks continued saying the neighbor directly next door to the site visited with staff this week to discuss parking along North Liberty Street. The neighbor does not have any off-street parking and has to rely on the on-street parking in front of her home. Although she is not opposed to the request of additional tenants, she would just like to be assured that the tenants would park on their site and not in front of her home. She has written a letter and a copy has been provided for each of you this evening.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Colman said one of the things we discussed during the site visit yesterday was the issue of parking and if the tenants or guests were to park on the street. If they were to park right in front of their house there would not be an issue; but, if they are parking in front of the neighbor it would be an issue for me.

Dr. Dilts said we had talked about putting a condition in here that the persons that would live in the home be required to park in the rear and it would be cause for revoking the SUP if there was a complaint about the loss of a parking spaces in other areas. I do not know if we want to entertain that idea.

Mr. Way said a condition that the tenants park in the on-site parking only.

Mr. Colman said they should have a right to park in front of their own house as long as they are not taking on-street parking away from others. It would be hard to enforce that.

Mr. Heatwole said because it is hard to enforce would it be good then to have some type of a mention of the concern within the SUP?

Mr. Da'Mes said I do not think it is an obligation of this body to guarantee a parking space in front of your house along a public street. As long as adequate parking is provided off-site we are not creating a situation whereby parking becomes an issue or makes a dangerous situation. Sometimes a homeowner has to park a little further down than from the normal spot. I would not be in favor of a parking condition like that.

Mr. Colman said do you feel we should just leave it alone?

Mr. Da'Mes replied yes, I would.

Chair Fitzgerald asked if there was anything further. Hearing none, she opened the public hearing and asked if there was anyone desiring to speak in favor of the request. Hearing none,

she asked if there was anyone desiring to speak in opposition of the request. Hearing none, she closed the public hearing and asked Planning Commission for more discussion or a motion.

Mr. Baugh said the thing I am wondering is how is this request materially different from the same type of request that we had for a property on Broad Street? We absolutely did not approve that request.

Mrs. Banks said that particular house, which we received via an occupancy complaint from a neighbor, was within a Neighborhood Residential land use designation. As well it was along a neighborhood street.

Mr. Baugh said I am not saying I am not capable of distinguishing between the two, but essentially the arguments made by the two applicants were the same. There is a sense that the Broad Street neighborhood is really on the “up-swing” to some extent, in a way that this one is not.

Mr. Colman said that this one fits within the Comprehensive Plan.

Mr. Fletcher replied that the land use designations are quite different with the two locations. There was a discussion that you may not have heard when Mrs. Banks commented about the street network. Broad Street is an internal local street; whereas this one is a collector street that is acting very differently. Staff does not take this type of use lightly at all and if you notice we do not recommend in favor of this type SUP very often. This one seemed to fit for us, which is why we gave it a favorable recommendation.

Mr. Baugh said I do not have a problem with this, but I wanted to get this out on the table. Among other things, it would not surprise me if this did not come up at City Council.

Mr. Way said I agree with Mr. Da’Mes in the fact that you can ensure that off-street parking is provided; however, you cannot force people to park there.

Mr. Colman said but we have the ability through this process to require that the parking be in the back.

Mr. Fletcher said the requirement is that the parking be off-street, not that it has to be in the back specifically. To obtain the SUP they have to have the area to provide four off-street parking spaces. If you start to designate the parking spaces you start to take away the feel of the single-family home with four occupants.

Mr. Da’Mes said I believe that human nature would be to park your car in a safe place off the street as opposed to along the street. There is the idea of creating permit parking in the area.

Mrs. Banks said the neighbor was not interested in having permit parking for the neighborhood.

Chair Fitzgerald asked if there was a motion

Dr. Dilts moved to recommend approval of the SUP for 680 North Liberty Street, Increased Occupancy, as presented.

Mr. Da’Mes seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor (7-0) of the motion to recommend approval.

Chair Fitzgerald said this will go before City Council on February 9<sup>th</sup>, 2016.

***Special Use Permit – 98 Pleasant Hill Road (Section 10-3-40 (6) MFDH)***

Chair Fitzgerald read the request and asked staff to review.

Mr. Fletcher said the Comprehensive Plan designates this area as Low Density Residential. This designation states that these areas consist of single family detached dwellings with a maximum density of 1 to 4 units per acre. Low density sections are found mainly in and around well established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

The following land uses are located on and adjacent to the property:

- Site: Single family detached home, zoned R-2
- North: Single family detached homes fronting Middlebrook Street, zoned R-2
- East: Single family detached homes fronting Middlebrook Street, zoned R-1, and other single family detached homes fronting Pleasant Hill Road, zoned R-2
- South: Across Pleasant Hill Road, single family detached homes and undeveloped parcels, zoned R-2
- West: Single family detached homes, zoned R-2

The applicant's representative, Ms. Tara Koontz, is requesting a special use permit (SUP) per Section 10-3-40 (6) to operate a major family day home (MFDH) at 98 Pleasant Hill Road, which is zoned R-2, Residential District. The subject site is currently for sale and Ms. Koontz has the property under contract to purchase. Ms. Koontz is hopeful that both her real estate contract and SUP application are approved so she can easily transition her family and her existing MFDH child care operation located at 627 South Mason Street to the subject site.

As noted, Ms. Koontz currently operates a MFDH at 627 South Mason Street, where the property is zoned U-R, Urban Residential District and has the R-P, Residential Professional District Overlay. In May 2010, after going through the public hearing process and receiving favorable recommendations for approval of a SUP to allow a MFDH from both staff and Planning Commission, City Council approved her SUP with no conditions at the Mason Street location. Prior to receiving her MFDH SUP, Ms. Koontz operated a minor family day home at the same property.

The subject site at 98 Pleasant Hill Road is located within the block bounded by Willow Hill Drive to the west and Central Avenue to the east, where it is just over one half acre in size and is improved with a single family detached dwelling with a large, fenced rear yard. The property is accessible via Pleasant Hill Road by a paved single lane, almost 80-foot in length driveway, leading from the public street to the garage.

After thorough review, staff has only one concern with the application and is recommending approval of the request with one condition. Although Pleasant Hill Road no longer maintains the same traffic volumes it once carried prior to the opening of Erickson Avenue between South Main Street and South High Street, the street remains designated a collector street and holds relatively high traffic counts. (After Erickson Avenue was opened, there was almost a 45 percent traffic reduction on Pleasant Hill Road.) Because the traffic numbers remain relatively high, staff does not want to allow new or additional uses that would promote vehicles backing into Pleasant Hill Road when exiting properties.

To help prevent this from happening, staff is recommending approval of the MFDH only with the following condition:

A vehicle turnaround shall be provided on site. The turnaround shall not simply be additional space for the storage of vehicles for drop-off and pick-up of children, but rather a designated area, where vehicles can safely turnaround on site to eliminate the need to back into Pleasant Hill Road when exiting the property.

Mr. Da'Mes asked when the applicant would need to comply with the condition.

Mr. Fletcher replied if this is approved at City Council, we will coordinate with Ms. Koontz as to a timeline, probably within or about thirty days of approval of the SUP.

Chair Fitzgerald asked if there were any further questions for staff. Hearing none, she opened the public hearing and asked if there was anyone wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak in opposition of the request. Hearing none, she closed the public hearing and asked for discussion or a motion.

Mr. Da'Mes moved to recommend approval of the request for a MFDH per Section 10-3-40 (7) at 98 Pleasant Hill Road with the recommended condition of a vehicle turnaround.

Dr. Dilts seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the motion to recommend approval (7-0).

Chair Fitzgerald said this will moved forward to City Council on February 9<sup>th</sup> with a favorable recommendation.

***Zoning Ordinance Amendment – Sections 10-3-196 & 197 to Modify Concealed Wireless Telecommunications Facilities Minimum Setbacks***

Chair Fitzgerald read the item and asked staff to review.

Mr. Fletcher said staff is proposing to modify the Wireless Telecommunications Facilities ordinance, Article CC, by eliminating the setback regulations for collocated concealed wireless telecommunications facilities. As a reminder, concealed wireless telecommunications facilities are defined as: “Any wireless telecommunications facility that is integrated as an architectural feature of an existing structure or any new support structure designed so that the purpose of the facility or support structure for providing wireless telecommunications services is not readily apparent to a casual observer. Examples include but are not limited to: bell towers, clock towers, faux trees, flag poles, minarets, monuments, parapets, religious symbols, smoke stacks, steeples, or structures intended as art.” After applying the recently adopted regulations for the past five months on several properties throughout the City, an unintended regulatory situation presented itself at 23 Toni Street. Staff would like to amend the code to alleviate the unplanned prohibition as described below.

For the past couple of months, staff has been assisting a representative with Network Building and Consulting, LLC—a wireless site development firm contracted by Verizon Wireless—to erect several wireless telecommunications facilities on B-2 zoned property throughout the City, where the intent was to install camouflaged macrocells and industrial microcells as well as concealed wireless telecommunications facilities. Of the locations that were evaluated,

preliminarily, the only property that became problematic for them was the site at 23 Toni Street, which is improved with a structure that is non-conforming to setback regulations.

At the time of their initial site analysis, their desired installation was to erect a facility by mounting it to a side of the building that is non-conforming to setback regulations. During the analysis, staff pointed out that, oddly, depending upon whether the facility was categorized as a camouflaged industrial microcell or a concealed wireless telecommunications facility, there could be an issue with whether or not the wireless facility could meet the code provisions associated with setback regulations. This is because the code states that by right concealed wireless telecommunications facilities in the B-1 and B-2 districts, and others, shall meet the minimum setback regulations of the base district (even if they are collocated) while all other by right wireless telecommunications facilities (i.e. industrial microcells, DAS, macrocells, and others) do not have minimum setback regulations because such facilities shall be collocated. In this particular case, since their desired installation was to reach above the roofline of the building, the facility had to be classified and designed as a concealed wireless telecommunications facility, which then triggered the application of setback regulations, and therefore the facility could not be mounted on the side of the building they desired. Staff believed this created an odd situation because if camouflaged industrial microcells could be located anywhere on the non-conforming structure, but concealed wireless telecommunications facilities—those that are intended to be less obtrusive than the camouflaged facility—could not, then the existing regulation was overly burdensome.

The amendment described herein would modify the code to treat collocated concealed wireless telecommunication facilities equal to all other collocated facilities. Rather than only making the change in the code for the facilities that could be located on B-1 or B-2 property, staff is also proposing to make the change for collocated concealed wireless telecommunications facilities that could be located on any residentially zoned property and for properties zoned MX-U. Staff does not believe there would be negative consequences in making the change for facilities that could be located on residentially zoned property because any wireless telecommunications facility to be located in any of those districts must be approved by a special use permit and therefore be subject to public review.

Specifically, the proposed amendments would occur within Section 10-3-196 (2) (a) (ii), where the regulation would be amended as shown below for residentially zoned properties and the MX-U district:

- ~~Unless collocated, minimum~~ Unless collocated, minimum setback regulations shall be controlled by the district in which it is located or as may be more strictly conditioned and approved by city council.

And then for the changes necessary for facilities located on B-1 or B-2 property, the modifications would occur within Section 10-3-197 (1) (a) (ii), where the regulation would be amended as shown:

- ~~Unless collocated, minimum~~ Unless collocated, minimum setback regulations shall be controlled by the district in which they are located.

Staff recommends approving the proposed Zoning Ordinance amendments.

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she opened the public hearing and asked if there was anyone wishing to speak in favor of the amendment. Hearing

none, she asked if there was anyone wishing to speak in opposition of the amendment. Hearing none, she closed the public hearing and asked for discussion or a motion.

Mr. Colman moved to recommend approval of the amendment to Sections 10-3-196 and 197 in order to modify the minimum setback regulations for concealed wireless telecommunication facilities as presented by staff.

Dr. Dilts seconded the motion.

Chair Fitzgerald asked if there was any further discussion. Hearing none, she called for a voice vote on the motion.

All voted in favor of the motion to recommend approval (7-0).

Chair Fitzgerald said this will move forward to City Council on February 9<sup>th</sup>.

### **Unfinished Business**

None.

### **Public Input**

None.

### **Report of Secretary and Committees**

Mr. Baugh said last night City Council took up the Spotswood Country Club Comprehensive Plan amendment and the rezoning request, the R-7 amendment, and the request for public utilities extension to the Carr property in Rockingham County; all were approved by Council.

Mr. Way said Plan Our Park met yesterday. There was further discussion on fundraising and the idea of penning names to things if you pay money for them. I had to leave for a class after that, perhaps Mr. Baugh can finish the second half of the meeting.

Mr. Baugh said the next part of the discussion at the Plan Our Pak meeting regarded the architectural design for the extension of the Farmers Market; which has been the near term fundraising focus. Blue Ridge Architects offered their design services for free. It is being looked into, but everyone expects it will be okay. It would alleviate a near term fundraising need in the order of about \$10,000 to \$15,000. Hopefully that will all fall into place.

Chair Fitzgerald said she attended the Rockingham County Planning Commission meeting last week; as always, very interesting. They had a couple of rezonings that moved forward smoothly. Four ordinance amendments were discussed, code amendments as well; they were all basically housekeeping matters. Two amendments that were most interesting to me were tabled and will be revisited for further discussion. They were about the idea of allowing in agricultural zones, small businesses, maybe retail businesses, that are agriculturally related. For instance, if you have a farm and you need nails you would not have to drive all the way into Harrisonburg for nails, there would be a retail business that could help you. We also heard a lot about runoff from pressure treated lumber into the water shed and all kinds of other interesting things that I had not heard of before. It was a very interesting meeting.

Mrs. Banks said proactive zoning has returned. There has been a little "tweaking" of the program while it was on hiatus. Proactive zoning is in its fifth rotation of its three year cycle. Zoning inspectors will be visiting two areas for the next several months in order to catch-up after the hiatus. This month North Main Street and North Liberty Street were visited. Along

with tweaking the proactive zoning areas slightly, we have also added the areas to GIS so that we can have a close-up view of the area. In this cycle, North Main Street had 38 violations and North Liberty Street had 31 violations of inoperable vehicles.

Mr. Fletcher said we also changed some of the names for areas, so you may see that in the future. These ideas were brought to us by the zoning inspectors and we really appreciate the changes.

### **Other Matters**

Mr. Fletcher said Dr. Don Hopson, Virginia State Veterinary Supervisor with the Virginia Department of Agriculture and Consumer Services, is here tonight to speak with you and present a PowerPoint presentation about avian influenza. He will answer questions after the presentation. I have also told citizens that were directly interested in the conversation that the Planning Commission was going to hold this discussion and invited them here as well.

Dr. Hopson thanked everyone for the invitation. I am here tonight to educate you on the events of the 2015 Highly Pathogenic Avian Influenza (HPAI) event that took place in the United States and how that reflected in the backyard poultry. During the 2015 HPAI event 232 total flocks were affected; 211 of those were commercial flocks. A commercial flock is one that is being raised by an owner for the main purpose of income and a non-commercial flock is considered all others.

This disease is spread by people not practicing good bio-security; when boots and other equipment are not being disinfected on and off the farm. It is also spread by feathers, dust, moisture, and wind. It is resolved through rapid detection within a flock and rapid containment (depopulation). Only a few viral particles will cause poultry to get sick and die. When the 2015 HPAI virus showed up in the United States it showed up in backyard flocks first. If a virus can be kept away from backyard flocks we have a much better chance of not having the virus affect our commercial flocks.

It is imperative to have good bio-security, which is the set of preventive measures designed to reduce the risk of transmission of infectious disease onto an operation. As well, there needs to be a system of bio-containment, which is the control of the disease agents already present in a particular area, thus working to prevent inter-operational transmissions from flock to flock.

Dr. Hopson said I do have some considerations that I would like to share with you as you review your ordinance.

- The Virginia HPAI response plan requires depopulation within 24 hours of diagnosis and on-site disposal of poultry by composting.
- Composting must take place for 14 days and then the pile is stirred and composted for another 14 days, for a minimum of 28 days.
- Do Harrisonburg properties provide the necessary square footage to depopulate and compost their carcasses on site?
- Risks – Backyard poultry flocks versus the Harrisonburg/Rockingham County commercial poultry industry and their contribution to the local economy.

Dr. Hopson said I would be glad to answer any questions you may have.

Dr. Dilts said I was struck by your statement that the owner had to bring in samples from the flock for testing. What did you all do here in this area for testing when the outbreak happened? Are you all proactive in this area?

Dr. Hopson said yes, we are proactive; however, most backyard flock owners do not want to have us come in and test their flocks knowing they may have to be put down. We will not turn away anyone who wants to submit a sample for testing.

Dr. Dilts said you stated that you must follow the Federal guidelines for containment and disposal; but you were also clear that there is a difference between Virginia and West Virginia. Is there a difference?

Dr. Hopson said yes. It is because of manpower. For the USDA to come into Virginia the State Veterinarian has to invite them in and one reason we would do so is if we were overwhelmed and needed the extra manpower and supplies. That brings the Federal agents in and then they become the “boss” in charge and we do things their way. So until we invite the USDA in, if there is a case that spills over into West Virginia, the State Veterinarian in West Virginia would take the lead role for the state until they saw fit to bring in the USDA.

Dr. Dilts asked if the trucking of birds across state lines is also an issue.

Dr. Hopson said yes, anytime a bird, or any animal, crosses a state line it must have a health certificate and it must have some form of official identification. This is for traceability so that the state knows where the birds are coming from and where they are going.

Mr. Baugh said it is my understanding that the trend has been for more and more places to begin allowing backyard chickens. I have not heard of any places that have gone the other direction of once allowing them and now taking that right away. How are you seeing that?

Dr. Hopson said the State Veterinarian has no authority to say you cannot have backyard poultry; that is completely up to the localities. My opinion is, and I am obviously swayed, I am with the State Veterinarian to do three things – to protect the food supply, to promote agriculture, and to regulate our regulations. It is difficult for me to say “bring on the backyard flocks,” because I know folks with backyard flocks that have absolutely no bio-security whatsoever. We have more humanitarian issues with backyard flocks as we do with avian flu; backyard flocks where the birds are not properly cared for and do not properly dispose of waste or carcasses. This creates issues for your animal control officials.

The avian influenza can be spread by waterfowl and this is where backyard flocks can be susceptible to contamination. Commercial flocks are contained within a building and bio-securing is practiced.

Chair Fitzgerald asked if there were any further questions for Dr. Hopson. Hearing none, she thanked him for the presentation and asked if there were any comments.

Quillon Hall said he is a resident of Harrisonburg and he is interested in acquiring backyard chickens. One of my questions would be what measures have been taken to protect commercial flocks? The couple of instances that were discussed tonight were from 1983 and 2002, but this is 2016 and there were new measures taken after the 2015 outbreak.

Dr. Hopson replied we have increased the amount of surveillance, even prior to 2015; every commercial poultry house in Virginia is sampled for avian influenza within 14 days of it moving off the farm. We have now intensified that surveillance, no poultry moves off of a premise in

Virginia until we know for certain that farm is negative for the virus. More so, we have done extensive educating of the commercial folks, growers, and so forth, on proper bio-security. That is probably the two most important things we have done.

Mr. Hall said I do have some further comments. From what I am understanding most of the disease is spread from waterfowl. I lack to see the connection between how someone with four chickens contained in their backyard somehow increases the ability for commercial chickens to become sick. Does Planning Commission have any comments regarding that?

Chair Fitzgerald said what our intent is, was to get the presentation tonight and take time to think it through, then come back and consider several specific questions that City Council has tasked us with. At this point I do not know if the group is thinking they would like to do something different?

Dr. Dilts said I would actually like to have Dr. Hopson address Mr. Hall's comment.

Dr. Hopson replied there are a couple of things. Backyard poultry are not housed inside; they are exposed to the wild birds and waterfowl. The other thing is you have a lot of backyard poultry owners who do not have good bio-security practices, from what I have seen. Some actually try to fight birds, competitively. There are actually circumstances of owners that have mortalities place the carcasses in the household waste; they are not properly disposed of.

Mr. Hall said if people were educated on that would it be helpful.

Dr. Hopson replied yes, it would be helpful.

Mr. Colman said is bio-security practices something you feel could be achieved within the City for backyard chickens.

Dr. Hopson said how would the City ensure that a person is practicing good bio-security? Prior to your current poultry ordinance, when there was no ordinance in place and no poultry was allowed in the City, we were constantly called out because of poultry flocks. If it was not regulated then, what makes one believe a backyard flock can be regulated now? Who is going to oversee this within the City of Harrisonburg?

Dr. Dilts said the outbreak this past year affected both chickens and turkeys?

Dr. Hopson said yes along with some wild game birds as well. Waterfowl were affected as well; however, they are a-symptomatic. When avian influenza affects waterfowl it is more of a gastrointestinal problem. When it affects your gallinaceous birds it is more of a respiratory problem. Whenever your waterfowl contract avian influenza they are usually "pooping" all over the place; so when you see them fly over they are like flying flu factories spreading the virus.

Chair Fitzgerald said that is then a vector for the transmission of the avian flu.

Dr. Hopson said yes. Owners, growers, and workers walk in contaminated droppings, yet they are practicing bio-security at the door to the poultry house. This is not the same for backyard poultry.

Mr. Hall said can you describe the measures that are taken to go inside a poultry farm and house.

Dr. Hopson said you must contact the owner to make an appointment to come to the site, you must sign in, and you must also put on personal protection equipment (PPE) before you enter the house.

Mr. Hall said it is not like a person who owns backyard chickens could just walk into a commercial chicken house.

Dr. Hopson said I understand your point; however, there is no law enforcement making sure that doesn't happen. I do not believe that anyone is intentionally going to spread the disease; it is usually because people do not think about it.

Mr. Hall said education is a key.

Mr. Da'Mes asked Dr. Hopson to discuss vaccination.

Dr. Hopson said to vaccinate for the H-5 or H-7 Avian Influenza it must be approved by USDA. We did get that approved, but only to be used at the discretion of the State Veterinarian; however the State Veterinarian of Virginia is not going to allow that. If you vaccinate commercial poultry for H-5 or H-7 foreign countries will not take your poultry for consumption because they assume you are vaccinating because you have the virus and it is not controlled.

Mr. Da'Mes said how about for a private citizen with a backyard flock?

Dr. Hopson said that would be a class one misdemeanor if backyard flocks were vaccinated without the approval of the State Veterinarian.

Mr. Baugh asked for some clarification. What you are saying is why you would not vaccinate commercial flocks makes total sense. What I am understanding you saying is that even if I, as an individual backyard flock owner, wanted to vaccinate, I could only do so with approval from the State. Has that ever been explored for backyard flocks and whether there is any merit to vaccinating?

Dr. Hopson said if you vaccinate even one backyard producer you have now shut down all of the Virginia commercial poultry.

Mr. Baugh said that was the clarification I was looking for. It is looked at State wide whether it is a backyard flock or a commercial flock. Thank you.

Dr. Dilts asked if this strand of virus was stable or does it undergo a lot of mutations.

Dr. Hopson replied it undergoes numerous mutations. Life expectancy is roughly four years. It is going to circulate and it is going to mutate because these are single stranded DNA viruses that would like to marry up to another single strand to create an entirely new strand.

Dr. Dilts said that is very important. What we could get next could be even worse than what we have.

Mr. Hall said the City of Harrisonburg currently has an ordinance for chickens and the lot size is set at two acres. What I was hoping, would be to strike the requirement all together. What changes would you suggest to the existing ordinance?

Dr. Hopson said to be honest I do not know your ordinance. I can appreciate your concern and your desire to have poultry in the backyard, but why did you move to your current location if you knew what the law about backyard poultry was?

Mr. Baugh said we all have a right to petition our Government to change our rules. If you have an infection and you are following appropriate protocol for disposal of the bird, would that correspond to any minimum lot size?

Dr. Hopson replied I do not believe so. There is nothing that tells us that we have to have so many square feet for each bird.

Mr. Baugh said I am asking about the composting area, is there a minimum.

Dr. Hopson said there is no minimum standard. It comes down to the Virginia Department of Environmental Quality (DEQ), those folks head that operation. The ideal way is of course to compost on site, by moving the carcasses there is a greater chance of spreading the virus.

Mr. Hall said I hope we can work together for a resolution.

Mr. Hobey Bauhan said he is the President of the Virginia Poultry Federation, which is based here in Harrisonburg and I also reside here. I just want to thank you all for your diligence in trying to learn more about avian influenza. The poultry industry is a large economic factor in Virginia and probably no locality has more impact on the industry than the City of Harrisonburg with the processing plants, feed mills, live jobs, and indirect jobs from businesses that provide goods and services to the poultry industry. So far, we are concerned about this issue here in Harrisonburg because of the density of the poultry in this immediate area and Rockingham County as well. If we can be of any assistance to you as you move forward through this process, let us know. Thank you for taking a cautious approach and trying to have all the facts presented.

Chair Fitzgerald thanked everyone. She then asked Planning Commission if there were further questions. Hearing none, she asked how Planning Commission would like to handle this next month.

Mr. Fletcher said believe it or not there are no new cases for next month's agenda, so you could take a very in depth look at this. We can check about drumming up some public input on the topic next month, perhaps some free media to get those folks interested to come out and participate. This was first brought to Planning Commission in October, so we are several months out at this point; being that there are no new business items for next month's agenda, it would be a great opportunity if you want to flush it out.

Dr. Dilts said when the current ordinance was under consideration, was there a conversation about the bio-hazard portion of it?

Mr. Fletcher said I would have to re-look at the minutes.

Dr. Dilts said perhaps you could just send the minutes. Do you remember why the two acre limit? It almost sounds like it had something to do with neighbors and neighborhoods.

Mr. Baugh said if I recall correctly, the two acres kind of evolved from averages of other communities. As for your first question, I would say nothing then rose to the level of debate here in any of the open sessions of discussion. I know that Council Members had people give us articles and data to review, but this conversation alone is at a higher level than anything that took place during the original discussions.

Dr. Dilts said part of it is that we just came off of the 2015 outbreak; therefore we are a bit more cautious about what we do and why we do it. The larger discussion of what an individual wants versus what is happening to a society is part of the conversation also.

Mr. Fletcher said if Planning Commission absolutely wants to talk about it next month it would be good to know so that we can prepare and we can get the opportunity to get this out to the public. This is not a public hearing so it is not advertised.

Chair Fitzgerald said it would be a public input session. We could also vote on recommendations to City Council.

Mr. Fletcher said this is not part of the zoning ordinance, and staff is not offering any recommendations; these are just the talking points that City Council has offered for this group to talk about.

Chair Fitzgerald said there was a lot of discussion in the materials that you gave to us previously about the number of times Animal Control got called out about chickens before the 2009 ordinance. Is there any sense as to whether that has changed? Or has this ordinance done nothing to the way people have chickens in the City. Do people who cannot meet the two acres continue to have chickens?

Mr. Fletcher said we can certainly contact Jetta Earhart regarding those questions; but my quick view is it is exactly the same.

Chair Fitzgerald said do we agree that we will think about this, advertise it through the media, but not as a public hearing just get the word out through social media, come back to it next month for public input and discussion, and then maybe decide what we would like to send forward to City Council.

Mr. Fletcher asked if the group was hoping the public input would speak to these four talking points. Because there are measures in place and we do not want to re-invent the wheel with the ordinance.

Chair Fitzgerald said perhaps the Public Information Officer could craft the outreach notice along those talking points.

There was a consensus among the Planning Commissioners that this was indeed the direction they wanted to take regarding the chicken ordinance discussion.

### **Adjournment**

The Planning Commission meeting was adjourned at 8:50 p.m.

## February 2016, Proactive Zoning Report

For the month of February 2016, the proactive zoning program inspected the **Westover** and **Garbers Church** sections of the city. The violations related to inoperable vehicles, signs, indoor furniture, and junk. The proactive zoning program for March 2016, will be directed toward the **Spotswood Acres** and **Jefferson** sections of the City.

MONTH	SECTOR	5 <sup>th</sup> CYCLE VIOLATIONS	CORRECTED	2 <sup>nd</sup> CYCLE	3 <sup>rd</sup> CYCLE	4 <sup>th</sup> CYCLE
March 2015	Wyndham Woods	0	0	0	4	2
March 2015	Northfield	19	19	6	19	13
April 2015	Purcell Park	6	6	6	5	8
April 2015	Parkview	11	11	7	16	5
May 2015	Ind./Tech Park	1	1	1	0	0
May 2015	Northeast	45	44	45	63	29
June 2015	Exit 243	11	11	0	1	1
July 2015	Fairway Hills	2	2	0	0	2
August 2015	Smithland Rd.	3	3	4	0	2
January 2016	N. Main St.	38	22	4	4	10
January 2016	Liberty St.	33	14	4	18	11
February 2016	Westover	42		8	17	13
February 2016	Garbers Church	4		2	1	9
March 2016	Spotswood Acres			4	1	8
March 2016	Jefferson St.			22	35	21
April 2016	Forest Hills/JMU			1	1	1
April 2016	S. Main St.			0	2	5
May 2016	Hillandale			5	17	11
June 2016	Maplehurst/JMU			5	2	0
July 2016	Long Ave/Norwood			28	17	11
August 2016	Greystone			10	13	9
September 2016	Greendale/SE			2	5	1
October 2016	Ramblewood			8	1	11
November 2016	Stone Spring Village/JMU			10	0	2
December 2016	Sunset Heights			29	10	2
January 2017	Reherd Acres			12	9	10
February 2017	RT 33 West			16	6	13
March 2017	Chicago Ave			22	29	4
April 2017	Pleasant Hill			13	17	9
May 2017	Avalon Woods			26	11	36
June 2017	Waterman Elementary			61	18	15
July 2017	Keister Elem			5	8	7
August 2017	500-600 S. Main			30	16	4
September 2017	Court Square			3	2	5
October 2017	Bluestone Hills & Valley Mall			33	31	27
November 2017	Preston Heights			3	1	7



# City of Harrisonburg

## Department of Planning and Community Development

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## Memorandum

To: Harrisonburg Planning Commission  
From: Alison Banks, Senior Planner  
**RE: Consider Amending Section 15-2-24 Fowl, Chicken and other Domestic Birds**  
Date: Friday, February 5, 2016

At last month's regular meeting, Planning Commission heard a presentation from Dr. Don Hopson, State Veterinary Supervisor, on the Avian Influenza. After the presentation a brief discussion occurred related to the virus and generally about backyard chickens. At the end of the discussion, it was decided that Planning Commission would 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 the Commission to consider. Those points include: whether the lot size threshold in the existing ordinance 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.

City staff created a discussion regarding the chicken ordinance issues on the "Be Heard Harrisonburg" web site. In addition, a press release was sent out through different media sources informing members of the community where and when they could provide public input.

As requested by the Commission, staff also spoke with Jetta Earhart, Animal Control Officer, regarding whether there has been an increase or decrease in the number of backyard chicken violations since the 2009 ordinance was adopted. Her response is included within the packet. Officer Earhart also noted that she would not be concerned with reducing the lot size square footage requirements or increasing the number of allowed hens. She suggests keeping the minimum setback requirements from the property line, restricting the hens to only single-family lots, and to continue to prohibit roosters and slaughtering. She also suggested keeping the existing permit process in place as it provides a "paper trail" that can be cited if a site plan is not adhered to and to further address carcass disposal in the "litter and waste" portion of the ordinance (15-2-24(9)).

Information herein includes:

- discussion from the Be Heard Harrisonburg conversation;
- comments from the Harrisonburg Stormwater Advisory Committee;

- comments from the Virginia Poultry Federation;
- email from City Animal Control Officer – Jetta Earhart;
- letter from a concerned citizen;
- press release to media;
- existing ordinance (Section 15-2-24 – Fowl, chickens and other domestic birds);
- specific talking points from City Council.

Please read through this information so that we can discuss this issue under Other Matters.

The information herein was copied from the following webpage on February 5, 2016:  
<http://beheardharrisonburg.org/discussions/chicken-ordinance/topics/exploring-the-chicken-ordinance>.

## Discussion: Chicken Ordinance

In 2009, an ordinance was created to set parameters for those residents who met the requirements to have backyard chickens and other domestic birds.

Most recently, City Council has requested a review of this ordinance to evaluate its effectiveness and determine if any changes need to be made.

1 Topics 44 Answers Closes 2016-02-05

[View Discussion](#)

### Topic: Exploring the Chicken Ordinance

City Council revisited the requirements of this specific code section and is further exploring the following in regards to the ordinance:

- Whether the lot size threshold of two acres should be reduced;
  - If there should be a neighbor's approval added to the permit process;
  - Whether a certain number of permits should be issued within an implemented trial period;
- and
- Any other issues or concerns.

What do you think?

#### 44 Responses

[David Williamson](#) at January 25, 2016 at 4:21pm EST

No, the lot size should not be reduced. Yes, all neighbors should be required to give approval for someone to house loud chickens within the city limits. I can't even believe city council or the city of Harrisonburg allows chickens to be housed within the city.

4 Supports

[Lara Ressler Horst](#) at January 25, 2016 at 4:29pm EST

Lot size doesn't really seem relevant--we are talking about urban approaches to raising poultry, it's not about having a large lot.

I don't think neighbor's approval is appropriate as a requirement. Perhaps crowing roosters can be banned. I think most people just want fresh eggs . . . everyone I know who actually has chickens in town gets rid of the males as soon as they are discovered.

No trial period needed, there are plenty of cities around the country and state that we can look to for examples--time for H'burg to catch up with places like Chicago.

I am also interested in other poultry--guinea fowl, for example (which are much better for your home garden than chickens). It would be great to see a positively-framed regulation that describes the conditions that are acceptable for keeping poultry and assumes that its OK unless its a problem.

H'burg has so many good things going for it these days, updating the chicken ordinance will makes us an even friendlier city! Thanks!

16 Supports

**Josie Kinkade** at January 25, 2016 at 4:40pm EST

Reducing the acres to 0.5 might be a good compromise as a next step.

2 Supports

**Peaceful Yard** at January 25, 2016 at 8:08pm EST

The state vet testified before planning commission that from an animal welfare and safety perspective he did not see a need for a minimum lot size. What would be the purpose of a minimum lot size? The two acre limit was pretty obviously a de facto ban. A smaller lot size seems mostly to restrict the permission to people with more expensive homes. Chickens, as opposed to dogs and roosters, don't make much noise and don't give off noxious fumes like other permitted activities. My guess is that people who want a minimum lot size really mean they don't want it at all and would not consider 0.5 a compromise, leaving it as a needless burden if council otherwise determines this practice is acceptable.

10 Supports

**Paul Yoder** at January 25, 2016 at 6:02pm EST

4 chickens make less noise then a dog. Contained they are of no hazard to the neighborhood, especially 25 feet from the nearest lot line and can provide nutritious food for our families. Even larger cities accept the value of having a few chickens contained in a back yard.

13 Supports

**Elaine Blakey** at January 25, 2016 at 7:40pm EST

I absolutely am against having chickens raised within the city limits. I certainly would not want chickens near my home. I dealt with this problem once in another neighborhood and it was never resolved. A very bad idea to even consider!

2 Supports

**Peaceful Yard** at January 25, 2016 at 7:57pm EST

Could you be specific about what the problem was so decision makers can consider it?

0 Supports

**Sam Nickels**, Director, Center for Health and Human Development at January 25, 2016 at 10:13pm EST

Elaine, could you say more about what the problem was with your neighbor's chickens before? For example, were there crowing roosters? Were the chickens ranging free into other yards? Thanks, Sam

1 Support

**Elaine Blakey** at January 25, 2016 at 8:08pm EST

This problem involved chickens in a yard and it was reported to authorities and it may or may not have been addressed, however ... Bottom line is the chickens never left area at that time.

1 Support

**Peaceful Yard** at January 25, 2016 at 8:57pm EST

Thanks for the clarification, I see what you are saying. Some people have said that since chickens are a fact of life, maybe making them legal would improve matters. If people are determined to keep chickens they have no motive to follow any standards since they are already outside the law. If they can keep chickens legally, they can openly seek and accept advice on care and safety rather than hiding or being unaware of a potential problem. This might also help them be more pro-social rather than feeling like they are against the city and on the other side of the law?

1 Support

**Peaceful Yard** at January 25, 2016 at 8:21pm EST

If chickens are deemed acceptable, there should absolutely not be neighbor restriction. This would in effect say that only people who 'fit in' in their neighborhood would be allowed to live as they like. To have the government consider, let alone enforce this is repugnant. It would encourage discrimination

and segregation. Consider a neighbor who is not accepted in her neighborhood, perhaps because of her race. We could easily imagine her neighbors wishing to make her life difficult to try to pressure her out. Is it right for the government to serve as a tool to deny rights to her that she would have if she 'stayed in her place?' This is abuse, if not a lawsuit, waiting to happen.

6 Supports

**Sam Nickels**, Director, Center for Health and Human Development at January 25, 2016 at 10:24pm EST

My comments have already mostly been covered by Lara above. I think it's time to expand the ordinance for people wanting their own healthy eggs since there are not enough producers even in our area. During the last debate the local chicken corporate lobbyist argued against allowing it because of concerns about disease/avian. While specialists I've read and talked to ([https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwingdiEwsbKAhVEVh4KHUjEBgMQFggcMAA&url=https%3A%2F%2Fwww.ces.ncsu.edu%2Fdepts%2Fpoulsci%2Ftech\\_manuals%2Fpreventing\\_avian\\_influenza\\_backyard.pdf&usg=AFQjCNFrB8wbQI8OyxQhGXzJP4Z7RrgpYA&sig2=495Toe1P1MvfCCHkwGCZYQ&bvm=bv.112454388,d.dmo&cad=rja](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwingdiEwsbKAhVEVh4KHUjEBgMQFggcMAA&url=https%3A%2F%2Fwww.ces.ncsu.edu%2Fdepts%2Fpoulsci%2Ftech_manuals%2Fpreventing_avian_influenza_backyard.pdf&usg=AFQjCNFrB8wbQI8OyxQhGXzJP4Z7RrgpYA&sig2=495Toe1P1MvfCCHkwGCZYQ&bvm=bv.112454388,d.dmo&cad=rja)) are cautious and make recommendations for prevention, they are not at all opposed to backyard chickens. In fact, the major outbreaks are in large in-door flocks, the disease is frequently spread by moving chickens or equipment moving between farms, neither of which happens (or rarely) with backyard chickens. Thanks for having this community exchange! Sam Nickels, Harrisonburg VA

10 Supports

**Tad Williams** at January 26, 2016 at 7:23am EST

I'm hopeful that the city council will ignore all input from the Virginia Poultry Federation and allow backyard chickens with few limitations. All potential issues from noise to trespassing can be addressed in existing ordinances. I don't think there needs to be a license. The Poultry Federation will claim that backyard chickens pose a threat to the confined farms in Rockingham county, but like the avian flu outbreaks in Virginia in 1983 and 2002 transmission of the disease was due to movement of workers and equipment from farm to farm versus contact from wild birds or backyard chickens.

6 Supports

**Quillon Hall** at January 26, 2016 at 11:46am EST

I don't recall my neighbors with the barking dogs asking me if they could have them. Nor do I remember my neighbors with the cats that are always wandering in my yard if they could have them. I reckon they don't need to tell me that I can't have my pets either. Especially if I'm keeping them safely in a coop from their cats and dogs!

12 Supports

**Noel Levan** at January 26, 2016 at 12:22pm EST

I hope that our community leaders will withstand the pettiness of curmudgeons, the coercion of industry and recognize that a few fowl do not foul our neighborhoods. Sans roosters, male JMU students, tractor trailers and dump trucks, the only loud sounds in my neighborhood come from the half-dozen times a day when fire trucks scream by on their way to address our communities' medical and fire emergencies. Even three rooster couldn't hold a candle to that cacophony. And the JMU students, yelling sometimes goes on until after 1:00 a.m.! Anyone who would engage in the never-ending tasks of animal husbandry (poultry raising and care) must have the energy to address their needs. Rather than restricting by property size, offer low-cost poultry raising workshops (on a three-time/year schedule) to include fowl physiology and health issues, best housing and chicken run practices, chicken shelter and tractor building, how to protect from predators, what to do with litter/waste, how to candle eggs, etc. Invite the community to create and run an annual tour of local, backyard chicken operations. Invite the community to make group purchases of varied chicken and poultry varieties through a local buying club (supported by the group's advocacy and presence at local, festivals and downtown events. Offer annual veterinary discount coupons to owners to help ensure that their backyard denizens stay healthy and are supported to do so. Do what you will. Parents will commit to the tasks to keep a few backyard chickens for eggs, pets, education, garden assistance and the teaching of responsible (and fun) animal husbandry.

12 Supports

**Quillon Hall** at January 26, 2016 at 1:14pm EST

Very well said!

1 Support

**Peaceful Yard** at January 26, 2016 at 2:37pm EST

Except he left out the cacophony, fumes, and destruction of lawn mowers.

0 Supports

**Roy Nelson** at January 26, 2016 at 2:18pm EST

comment...Harrisonburg promotes itself as being a progressive small city. The growth of backyard chickens nationally and within Virginia sets a precedent that we need to learn from and follow. Residents should be encouraged, not discouraged by permit fees, lot size requirements, or neighbor permissions. Concerning noise, I would support a hen only policy.

4 Supports

**Cate Nelson** at January 27, 2016 at 11:01am EST

Harrisonburg, being the Friendly City with a focus on local food, absolutely should allow this type of urban homesteading. Chickens are easy to keep and aren't noisy, messy, or smelly (the last, despite what the George's trucks might have us believe). My hound dog makes more noise than my chickens ever did, and they're helpful for pests, weeds, and provide compostable material via their waste. Noise simply isn't an issue, especially considering we're discussing this in a college town.

Let's keep the parts of the ordinance that bans backyard slaughter within the city limits, but join the other cities (both large and small) across the country that have embraced backyard chicken keeping. No size restrictions necessary in my experience. A good chicken keeper can easily house a small flock in any lot, provided they keep the area clean and well tended. If the city is concerned about the cleanliness factor, residents can pay for permits that would cover the cost of any inspections needed.

8 Supports

**Roy Nelson** at January 29, 2016 at 6:29am EST

Permits are just another way to discourage backyard chickens by adding a cost to make this economically nonviable.

0 Supports

**Cate Nelson** at February 01, 2016 at 11:17am EST

I would happily pay an annual fee in order to have a backyard flock.

0 Supports

**Kristen FultonWright** at January 27, 2016 at 2:28pm EST

I am in support of allowing chickens in the city with no limit on lot size. And as long as hens are contained within fencing, I'm not sure why neighbors would need to approve a household's decision to keep them.

7 Supports

**Virginia Cutchin** at January 27, 2016 at 3:05pm EST

Perhaps I missed it but I have not read anywhere about what constitutes adequate shelter, protection, food/water availability, etc. Do proposed provisions cover these aspects too?

0 Supports

**Quillon Hall** at January 27, 2016 at 3:15pm EST

I believe that when you apply for a permit that the animal control officer will make a visit to check that the chicken coop meets the guidelines outlined in the existing ordinance. After that it's up to the owner to give them food and water.

0 Supports

**Ken Rutherford** at January 27, 2016 at 4:34pm EST

Our family supports backyard chickens - family activity, producing ones own healthy food. I support no lot size requirement with no setbacks if less than 4 hens. Right to raise chickens is not unlimited, however, such as hens only (No roosters or breeding). if you keep more than 4 chickens, you must have neighbor set aside, Chickens must be kept securely enclosed in the yard or pen at all times, adequate shelter from harsh elements must be provided.

1 Support

**Tim Cummings** at January 27, 2016 at 5:50pm EST

I'm all for backyard chickens. I agree with a 4-6 hen limit, 0.5 acre minimum lot, and absolutely no roosters, slaughter or breeding. Bring on the birds!

0 Supports

**Dale Goodwin** at January 27, 2016 at 10:20pm EST

Personally, I would not be in favor of any changes to the existing ordinance; however, if changes are made - ROOSTERS should NEVER be allowed. [as per existing code Sec. 15-2-24 (c) (3)]

1 Support

**Wes Douglas** at January 28, 2016 at 11:06am EST

You don't need two acres. Depending on how you intend to feed them you need very little space at all. If space were an issue with chickens, mass produced chickens/eggs wouldn't be a thing. I would just come up with a new max number per home and say no roosters....unless you have an acre or more. Chicken don't make noise and having a few of your own is a wholesome, rewarding and nutritional activity. If people can tolerate dogs ( which I love) chickens are a non-issue. If you don't secure your chickens the cats will have a free lunch. Chickens also do wonders for pest control to include ticks and other undesirable pests.

4 Supports

**karen thomas** at January 28, 2016 at 11:18am EST

I absolutely do NOT want chickens in my neighborhood, although there are some running around on Broad Street now stopping traffic at times. The authorities know where they are, and nothing has been done about it. They should be on a farm in the county same as the pigs and cows, I cannot believe the City is revisiting this matter. If you must revisit, leave the ordinance we have in place at 2 acres, or even more!

0 Supports

**Sean Egger** at January 28, 2016 at 2:12pm EST

In my experience, most of the negative feelings towards backyard chickens come from ignorance. I include myself in that statement since i was adamantly against them until i was exposed to them a few times and realized my assumptions were unfounded. Chickens make less noise than dogs, cause less order than a litter box, and take up very little space. In addition, there are countless community benefits such as reduced waste (chickens eat food scraps), decreased insect pests, decreased reliance on mass produced, factory eggs, increased community education regarding food and farming, and more money in the hands of local businesses.

Section 15-2 of Harrisonburg law already regulates pet ownership to protect the well-being of pets and the rights of neighbors. Why is more regulation needed? Having backyard chickens is no more obtrusive than dogs, cats, rabbits, ferrets, or any other "standard" pet, except in extreme situations. Those extreme situations can be handled using the same animal welfare and animal nuisance laws we already have in place. Additionally, the current 2 acre regulation is excessive. A half a dozen chickens take up less space than a shed.

The progressive, local conscious, and farm-appreciating Harrisonburg that I love should be promoting the raising of chickens through education, programs, and incentives. Please don't let the small minority ruin it for the general community.

6 Supports

**Jenny Reid** at January 29, 2016 at 6:14am EST

I am in support of allowing chickens in the city with no limit on lot size. I agree that they should be contained with fences. I also do not think neighbors need to approve a house getting them (they dont ask permission for dogs and cats). I am excited about the possibility of saving money on eggs, reducing the bugs in my yard, and teaching my children about caring for these animals!

3 Supports

**Roy Nelson** at January 29, 2016 at 6:32am EST

We will only save money on eggs if there is no excessive permit fee involved.

## 1 Support

**Cate Nelson** at February 01, 2016 at 11:19am EST

No different than getting a dog license, and it would be incentive for the city to approve this.

## 0 Supports

**Jennifer Brown** at January 30, 2016 at 3:42pm EST

Given that Rockingham County allows 50 chickens per acre, the fact that Harrisonburg only allows four hens per two acres is a bit extreme. Given that most areas are not designated agricultural use, the fact that there are only four hens would not create an agricultural environment if the lot size were to be reduced. Many larger cities allow at least six hens in a lot that is no more than 50,000 sq ft.

Of all the Virginia communities that allow urban chickens, none of them require neighbors' approvals. Individuals wanting urban chickens are already required to obtain a permit, requiring them to gain neighbor approval is unnecessary and an added hindrance. However, in order to make neighbors happy, perhaps Harrisonburg should follow Richmond's model requiring "a sketch plan of the coop to be sent to zoning to make sure it complies with zoning requirements, and an inspection of the coop and coop area." Richmond also requires an animal cruelty background check.

Larger cities do take into consideration noise and odor regulations, and perhaps Harrisonburg should consider that before issuing too many permits in a given area.

I would like to see the following language from the Vinton, VA ordinance be adopted: "(6) All enclosed permanent henhouses/coops must be at least 25 feet from the adjoining property lines and no closer than 50 feet from any adjacent residential dwelling or to any other building used for residential purposes, other than that of the owner of the chicken hens. All enclosed permanent henhouses/coops shall not be located in the front yard, required street side yard, required side yard, nor shall be located in any drainage area that would allow fecal matter to enter any storm drainage system or stream. (7) Secure movable/portable henhouses/coops and chicken tractors must be located at least 20 feet from the adjoining property line and no closer than 25 feet from any adjacent residential dwelling or to any other building used for residential purposes, other than that of the owner of the chicken hens. (8) All enclosures for the keeping of chicken hens shall be constructed and maintained as to prevent rodents or other pests from being harbored underneath, inside, or within the walls of the enclosure. The henhouse/coop must be impermeable to rodents, wild birds, and predators, including dogs and cats. All enclosed pens must be kept dry, well-ventilated, and in sanitary condition at all times, and must be cleaned on a regular basis to prevent offensive odors. All manure not used for composting or fertilizing shall be removed promptly. Odors from chickens, chicken manure, or other chicken-related substances shall not be detectable at the property boundaries. (9) No dog or cat that kills a chicken hen will, for that reason alone, be considered a dangerous or aggressive animal. (10) Adequate shelter, care and control of the chicken hens are required. Any person allowed to keep chicken hens under this section shall comply with all of the

provisions and definitions of the Code of Ordinances regarding care, shelter, sanitation, health, rodent control, cruelty, neglect, noise, reasonable control and any other requirements pertaining to the adequate care and control of animals in the town."

1 Support

**Brian Bogan** at January 31, 2016 at 8:50pm EST

I certainly think the lot size should be reduced to maybe as small as a 1/4 acre. I do think that there should be containment regulations (i.e. fencing around coop areas) I can see other neighbors pets being a problem and creating conflict. I have had neighbors with chickens in the past that would let them roam and would wander into my yard and cause my dogs to act crazy, I can see cat issues as well. But I don't think we should be regulated as to what food we can grow for our own families, just because we are in "city limits" This is certainly not a city by any means, it is a small town in the Shenandoah valley, where poultry farming was established in this country. Don't let big poultry fight us on this and force their commodity product down our throats, fight back Harrisonburg!

1 Support

**Ben Wyse** at February 01, 2016 at 11:42am EST

Hens can be much less of a noise problem than dogs. They also don't pose a physical threat. We have a loud and aggressive dog chained in our neighborhood (pit bull) who would certainly pose a physical threat if he broke his collar and got loose when we walk by with our children on the way to and from school. He is allowed to be out there for an hour at a time (up to 4x/day) and no neighbors have any say. It seems that if we are giving neighbors veto power over animals, then dogs might be an animal that could be added to the list.

It would be wonderful for us to be able to have a few hens as part of a way to teach our children about caring for animals who provide us with food. We would support having the ordinance allow chickens. It would seem that any lot that is big enough for a house to built on it should be allowed to have 4 hens. And no roosters should ever be allowed.

1 Support

**Erin Bishop** at February 02, 2016 at 2:50pm EST

I support our city allowing backyard chickens!

I grew up on a farm in Virginia where my family has always kept a healthy flock of chickens. The benefits are too numerous to list here. I mention this because though our farm was central to over 50 acres of land, the chickens (20+), their coop and fenced enclosures did not exceed 2,000 sq feet. It seems to me that the lot size regulation is irrelevant when considering such a small number of birds will be permitted.

I would NOT support any decision to allow neighbors to have a say in the execution of rightfully permitted activities. If the City can refine the backyard chicken ordinance to allow for more families to take part in the practice - and do so in ways that have been proven by cities and towns across our state and country - we should not grant the power to neighbors to limit that activity. (I agree with those who say this would open the debate for making the same arguments against other activities: dogs, free-roaming cats, loud parties, and other disturbances.) No roosters is a fine idea. I think these regulations will remain strongest if written to include only chickens; guinea fowl can make more noise and they fly - they should be addressed separately because their needs are different and so as not to potentially vilify all backyard birds cited in this specific ordinance if their noise became an issue.

(I LOVE the idea of allowing pigeons to be kept as well.)

2 Supports

**Jen Kettelkamp** at February 02, 2016 at 9:06pm EST

I support backyard chickens. I do not think neighbors should get to approve the decision. I fear that with restriction of space/lot size many people would not be able to participate. This is a wonderful way for families to support themselves with fresh eggs, and a great way for children to learn about where their food comes from!

2 Supports

**Fred Copithorn** at February 02, 2016 at 11:11pm EST

I add my voice to the many who want backyard chickens. Other cities seem to have this and it makes sense. But no to roosters; for egg production only.

2 Supports

**Michael Zook** at February 03, 2016 at 6:23am EST

I was excited to hear the idea of having chickens in the Burg was being revisited. I think enough has been said in regards to the fact that backyard chickens do not pose any threat to humans or other animals. The folks I know who would like to have chickens aren't going to run the large poultry folks out of business and aren't going to be an issue with their neighbors either. They are doing it because they have young children who are interested in having a "pet" and ultimately want to know where their food is coming from. I think some will find it more difficult and expensive than they imagined - just like the responsibility of owning and caring for a dog or cat. Within a two-year period of passing a new ordinance I would suspect that +/- 5% of folks living in H'burg would own chickens. I would suggest a maximum of 6 chickens on less than 2 acres, no approval needed from neighbors (one less piece of paperwork for city officials to deal with) and no roosters allowed. In the worst case scenario if chickens start running wild in the city this ordinance could be revisited again and changed

in the future. I appreciate city council taking time to revisit this ordinance and look forward to taking eggs off of our grocery list for ourselves and our neighbors.

2 Supports

**Gail Fox** at February 04, 2016 at 12:23pm EST

There are multiple facets with regard to this issue to be considered by the city Planning Commission and Council: \* Community health and safety are paramount. Information from the VA Poultry Commission will be essential to the decision. \* The Planning Commission must consider the philosophical choice of a traditional city environment or one of a more rural/farm oriented environment. \* The Council will need to address the impact of any decision on real estate values. \* Administration costs must be considered; for example, potential for increased numbers of staff, increased training requirements to monitor safety issues, and increased inspections to assure compliance. \* Outcomes: 1) If current regulations are to remain unchanged, Council should consider reviewing at a specified interval; 2) If the regulations are modified, these should apply across the city without neighborhood exceptions. 3) All parties should work collaboratively to abide by the city regulations.

Gail and Fred Fox

0 Supports

**Quillon Hall** at February 04, 2016 at 3:18pm EST

Anyone that is concerned about real estate values dropping because of backyard chickens should do a simple Google search or speak with a realtor on the subject. There is no cause for concern.

0 Supports

**Quillon Hall** at February 04, 2016 at 4:33pm EST

Phoenix, Los Angeles, Denver, Miami, Atlanta, Chicago, Indianapolis, Baltimore, Boston, Minneapolis, Kansas City, New York, Cincinnati, Portland, Dallas, Seattle and Milwaukee are among the countless number of city's that allow backyard chickens. I don't think of any of these cities as rural or farm environments. Virginia cities that allow backyard chickens include Alexandria, Arlington, Fredericksburg, Reston, Roanoke, Richmond, Norfolk, Virginia Beach, Charlottesville and Staunton. Let's add Harrisonburg to that list of progressive cities that allow families to house chickens for eggs!

0 Supports

**Teresa Haase** at February 04, 2016 at 7:25pm EST

We've had great experiences raising chickens in the context of education and sustainability endeavors. Our family supports backyard chickens.

1 Support

**From:** Thanh Dang  
**Sent:** Friday, January 22, 2016 4:03 PM  
**To:** Adam Fletcher  
**Subject:** FW: Chickens

Hi Adam,

A message regarding backyard chickens and stormwater pollution was sent to me and City Council members (see below). With regard to adding an additional fee, Public Works staff will not be recommending that we increase the stormwater fee for backyard chicken owners. Our fee is based on impervious surfaces only, and does not take into account land uses.

However, we do have recommendations that we would like to make to the Dept of Planning & Community Development and Planning Commission as you consider revising Section 15-2-24 of the City Code. Attached is our recommendation in tracked changes.

I'm happy to discuss this further if you have any questions or suggestions.  
Thank you,  
Thanh

-----Original Message-----

From: JM Snell II [<mailto:valrenjm@valrenonline.com>]  
Sent: Friday, January 15, 2016 7:31 AM  
To: Thanh Dang  
Cc: Ted Byrd; Abe Shearer; Kai Degner; Richard Baugh  
Subject: Chickens

Hope you had a nice Holidays and are settling in for a calm snow removal season.

Litter and waste from even backyard chickens will have an impact on our runoff water quality. I think the SWAC should consider this and advise PC accordingly.

I dislike the idea of adding an additional fee but taxing according to impact is how our program is set up.

Please fwd this to the Mayor. I don't have his email in my phone.

Excuse poor spelling and grammar. Small buttons and font. JM 540.820.4619

## **Harrisonburg Stormwater Advisory Committee**

**Excerpt of the Draft Meeting Minutes for February 3, 2016**

### **“Backyard Chickens Ordinance Recommendation”**

Thanh explained that Planning Commission discussed the backyard chickens ordinance in January. A community member wrote Public Works asking if the city would consider an additional fee towards the stormwater utility fee for those properties that have backyard chickens. She said that Public Works did not recommend an additional fee since the stormwater utility fee is based on impervious surface only and not land use. Thanh then asked SWAC to review language updates suggested by city staff and asked if SWAC had other water quality concerns regarding the ordinance. She added that SWAC was not being asked for their opinion on whether backyard chickens should be allowed in the City or not. Joanna Mott said that a 20 foot requirement from stream tributaries would not stop fecal matter from entering the stream. Rob Alexander agreed and offered that residents over-fertilizing lawns may be more of a concern than the fecal matter of chickens or dogs. SWAC agreed that the stormwater utility fee should not be tied to the ownership of backyard chickens. Following further discussion, SWAC recommended the ordinance changes suggested by city staff be forwarded to Planning Commission.

**Sec. 15-2-24. - Fowl, chickens and other domestic birds.**

(a)

*Definitions. Fowl is defined as any of various domestic birds by way of example but not limited to: Chickens, roosters, ducks, geese, turkeys, guinea fowl, emus, rheas, ostriches and pigeons.*

(b)

It shall be unlawful for any person to keep, permit or allow any domesticated fowl within the corporate limits of the city, or to allow any domesticated fowl to run at large within the corporate limits of the city, except as specifically permitted below.

(c)

It shall only be lawful for a person to keep, permit or allow chickens within the corporate limits of the city on residential property only, under the following terms and conditions:

(1)

No more than four (4) chicken hens shall be allowed for each single-family dwelling. No chickens shall be allowed on townhouse, duplex, apartment or manufactured housing park properties. Chickens allowed under this section shall only be raised for domestic purposes and no commercial use such as selling eggs or selling chickens for meat shall be allowed.

(2)

Each single-family dwelling shall contain at a minimum two (2) acres of land.

(3)

No roosters shall be allowed.

(4)

There shall be no outside slaughtering of birds.

(5)

All chicken hens must be kept at all times in an enclosed secure movable or stationary pen that contains at a minimum four (4) square feet per bird.

(6)

All enclosed pens must be situated at least twenty-five (25) feet from adjoining property lines and shall not be located at least twenty (20) feet from streams, tributaries, ditches, swales, stormwater management facilities, or other storm drainage areas that would allow fecal matter to enter any storm drainage system or stream.

(7)

All enclosed pens must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors. Once a permit is obtained pursuant to this section, the permittee agrees to semi-annual inspections by the Virginia Department of Agriculture and Consumer Services veterinarians.

(8)

All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.

(9)

Chicken litter and waste shall not be deposited in any trash container that is collected by any public or private waste collector and shall be disposed of by composting either on site or at the county landfill in accordance with the applicable permit. Also any dead bird shall not be deposited in any

<b>Deleted:</b> in storm drainage area
<b>Deleted:</b> city
<b>Comment [t1]:</b> References: City of Staunton, City of Norfolk Deletion of word "city" as we don't want fecal matter to enter any storm drain system regardless of whether it's the city's or private.

trash container that is collected by any public or private waste collector but shall be taken to the county landfill to be composted in accordance with the applicable permit

(10)

Persons wishing to keep chicken hens pursuant to this subsection must file an application with the city's department of community development, which application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed along with a twenty-five dollar (\$25.00) fee. The sketch must show all dimensions and setbacks. As part of the application process all persons must complete the Virginia Livestock Premises Registration with the Virginia State Veterinarian's Office prior to the issuance of a permit. Once the site and enclosures have been inspected and approved by the city's animal control officer, the city's animal control officer shall issue a permit, which permit shall be valid for one (1) year. Each existing permit must be renewed annually by filing a renewal application with the city's department of community development along with the payment of the twenty-five dollar (\$25.00) annual fee and by having the city's animal control officer make another inspection of the site.

(d)

The above subsection (c) shall not apply to indoor birds, such as, but not limited to, parrots or parakeets, or to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl kept in areas of the city as a legal nonconforming use.

(e)

Fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this section; however, owners of the fowl will have ninety (90) days from the effective date to come into compliance with this section.

(f)

Any person found guilty of violating this section shall be guilty of a Class 3 misdemeanor and subsequent violations of this section by the same person shall constitute a Class 2 misdemeanor.

(Ord. of 8-11-09)

**Editor's note**— Ord. of 8-11-09, set out provisions intended for use as § 15-2-25. For purposes of classification, and at the editor's discretion, these provisions have been included as § 15-2-24.

**Comment [t2]:** We continue to support this and would like to suggest that if more people raise backyard chickens that information to backyard composting, specifically to chicken manure, be made available to the public.

Unfortunately, there aren't any examples from other VA localities of backyard chicken manure composting information. The best information I found for the public is from Fairfax Co, <http://www.fairfaxcounty.gov/nvswcd/newsletter/backyard-chickens.htm>.

There are many other online resources, not specific to VA.



*P.O. Box 2277, Harrisonburg, VA 22801*

Contact: Hobey Bauhan, 540-433-2451, [hobey@vapoultry.com](mailto:hobey@vapoultry.com)

## **Virginia Poultry Federation Comments on the Harrisonburg Backyard Chicken Ordinance**

**February 5, 2016**

[Virginia Poultry Federation](#) (VPF) appreciates the opportunity to comment on the City of Harrisonburg's evaluation of its backyard chicken ordinance. We recognize that some urban residents wish to raise a small number of hens for their eggs, and we certainly sympathize with them in their desire to have the freedom to do so. However, Harrisonburg is unique among Virginia Cities in its concentration of commercial poultry industry facilities, such as processing plants, feed mills and hatcheries. Harrisonburg is the hub of one of the largest poultry producing regions in the country. This special status and its economic significance require added consideration concerning an issue that has ramifications for the biosecurity and health of an industry upon which thousands in our community rely for their livelihood.

In 2009, the USDA's Area Veterinarian and the Virginia State Veterinarian wrote letters expressing their concern about the threat of Avian Influenza and the impact of allowing backyard poultry in a locality with such a significant commercial poultry industry. Dr. Donald Hopson of the State Veterinarian's Office expressed concerns about biosecurity when he gave a presentation to the Harrisonburg Planning Commission last month about the historic Highly Pathogenic Avian Influenza (HPAI) outbreak in the Midwest last year and the expectation that migratory waterfowl could transfer HPAI into the Atlantic Coast Flyway. Additional information on the 2015 HPAI outbreak may be viewed on the USDA website [here](#). This outbreak has cost the federal government more than \$900 million, and caused hundreds of millions in economic losses.

The Shenandoah Valley suffered through a devastating outbreak of avian influenza in 2002, which affected 197 farms and 4.7 million chickens and turkeys and caused more than \$130 million in economic losses. We are trying to do everything possible through strict biosecurity and surveillance to prevent HPAI from infecting poultry flocks in Virginia.

While testing did not find AI in backyard flocks during the outbreak in commercial flocks in 2002, there are many examples of serious avian disease outbreaks in backyard poultry. In 2003, Exotic Newcastle Disease was rampant in backyard flocks in the Los Angeles area, costing tens of millions of dollars to eradicate. This outbreak, primarily in backyard birds in an urban setting, infected some commercial poultry flocks, causing significant economic harm. Backyard poultry in Asia has proven to be a significant reservoir for harmful AI. And the 2015 HPAI outbreak in the U.S. infected backyard poultry in addition to commercial operations.

Wild waterfowl are the natural carriers of avian influenza, and can transmit such viruses to domestic poultry if infected birds land among unhoused poultry or fecal material from them is tracked into poultry coops. The risk of contracting AI is higher due to the greater exposure to wild waterfowl in an outdoor environment than in climate controlled, modern poultry houses, the operators of which undertake extensive biosecurity measures.

VPF was certainly concerned about this issue when it last came before the City Council in 2009, and was pleased with the ordinance adopted at that time. The current ordinance addresses many of the management issues that can reduce biosecurity threats. However, it can be improved. It also essentially bans backyard chickens due to the two-acre lot requirement. While we would rather not have backyard flocks in the City, we recognize that some residents keep chickens in violation of the ordinance. In our view, rather than a de facto ban that drives this activity underground, it would be better to structure the ordinance in a manner that allows residents with an interest in proper management of backyard chickens the opportunity to raise them in accordance with an ordinance that is protective of the poultry industry and reasonable for them.

As such, if the City decides to reduce or eliminate the acreage threshold requirement, we respectfully ask for the following additional changes:

- Add a provision that no chickens shall be allowed for single-family dwellings located within 1000 feet of any property housing a poultry processing plant, hatchery, poultry feed mill or poultry company truck lot.
- Increase the setback from property lines from 25 to perhaps 35 feet.
- Add that pens must be covered and not just enclosed.
- Require dissemination to permit holders of educational information, developed by USDA, on biosecurity for backyard flocks.

The commercial poultry industry supports 52,000 jobs and \$13 billion in economic activity in Virginia. No locality, aside from perhaps Rockingham, has a greater economic impact from poultry than Harrisonburg. Given the importance of the commercial poultry industry to our local economy, we feel the existing ordinance in Harrisonburg is reasonable with the changes outlined above. Please let us know if you would like any additional information regarding our concerns. Thank you for your consideration.

## Alison Banks

---

**From:** Jetta Earhart  
**Sent:** Thursday, January 28, 2016 9:02 AM  
**To:** Alison Banks; Adam Fletcher  
**Cc:** Chris C. Rush; Richard Sites  
**Subject:** Backyard Chickens  
**Attachments:** 15-2-24 Poultry ordinance.docx

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**From:** Alison Banks  
**Sent:** Thursday, January 14, 2016 03:45 PM  
**To:** Jetta Earhart  
**Cc:** Adam Fletcher  
**Subject:** Backyard Chickens

Good afternoon Jetta,

I am not sure if you are aware of this, but backyard chickens are once again a topic at Planning Commission. City Council has tasked Planning Commission to explore several issues related to Section 15-2-24 (Fowl, Chickens and other Domestic Birds) of the City Code. Those issue are as follows:

- Whether the lot size threshold of 2 acres should be reduced;
- If there should be a "neighbor's approval" added to the permit process;  
*Is this currently a requirement in other permit request?*
- Whether a certain number of permits should be issued within an implemented trial period, and;  
*In reference to the number of permits issued, I see no reason to limit it. Animal care & Controls involvement in current permit process is very similar to the dangerous dog registration and annual renewal process. It involves a field check and document review, which are typically completed within several days after being received.*
- Any other issues not discussed in 2009.

At last night's PC meeting the members asked a question that I need to refer to you. The question is:

**Since the ordinance (15-2-24) was implemented in August 2009, have you noticed any increase, or a decrease in the number of backyard chicken violations? Or is it about the same as it has always been?**

**The number of complaints have remained about the same but the outcomes have improved tremendously. Previously, with no ordinance in place, there was no code violations that could be addressed or enforced by our department. The complaints were simply forwarded to zoning, who then sent a letter advising the property owner that they were in violation and they were give a time frame (30 days, I believe) to comply. That allowed the fowl to remain in the neighborhood creating a nuisance for a month or more after it was brought to our attention. There were no restrictions on the number allowed, so we often saw larger flocks (6 to 10 typically) of birds. Under the current code roosters are prohibited and that was the source of many of our previous complaints.**

**With the code enacted and parameters set, I have received no request for a permit to be issued. We have spoken to a number of citizens and fielded questions on both sides of the issue. Currently, with the ordinance in place, when I receive a complaint I simply respond and speak with the owner. Most are**

**unaware of the ordinance and willingly comply within just a few day with no objections, once they have a copy of the law in hand. I have not had anyone surrender the birds to me, but rather they rehome or otherwise dispose of the birds (more than one has referenced a chicken dinner). Only one summons has been issued.**

I appreciate your time, and we will keep you "in the loop" as things progress with this topic.

Alison

January 27, 2016

To: *Adam Fletcher, City Planning*

Re: Chicken Ordinance

Here we go again! The issue was debated and chickens in Harrisonburg were strongly opposed by a majority of residents. As you may recall, the 4 hens per 2 acre single family home was only tacked on after many left the meeting.

The issues remain the same: (1) Threat to the poultry industry due to avian flu. This alone should be enough to make every citizen nervous. Where would our economy be without the poultry industry?

(2) Nuisance and property devaluation to the neighbors. I have experienced the snakes and chicken hawks that come with the neighbor's chickens. Not something I ever thought I would have to contend with in the city. Shouldn't I be able to have the peaceful enjoyment of my yard, devoid of the snakes attracted by the neighbor's chickens? (NEVER had this problem before the chickens.)

The people who continue to ask for loosening the ordinance have stated that they would like to follow the rules – BUT the rules don't suit them. They have continued to have chickens despite the ruling. What message does this send? Only follow the rules you happen to like? Keep pushing the boundaries until you get your way?

As a resident of Harrisonburg, I adamantly oppose the loosening of the rules regarding chickens and other fowl in the city and would really like to see better enforcement of the rules that already exist.

Concerned Citizen,

Diane S. Gray, Owner  
879 Collicello Street  
Harrisonburg, VA 22802  
&  
2192 Lake Terrace Drive  
Harrisonburg, VA 22802



For Immediate Release  
January 25, 2016

Contact: Mary-Hope Vass, Public Information Officer  
540.432.8931  
[MaryHope.Vass@HarrisonburgVA.gov](mailto:MaryHope.Vass@HarrisonburgVA.gov)

## City Invites Public to Comment on Chicken Ordinance

Harrisonburg, Va. – The city has posted a discussion to *Be Heard Harrisonburg* and is asking members of the community for feedback on the ordinance regulating chickens and other domestic birds.

In 2009, an ordinance ([Section 15-2-24](#)) was created to set parameters for those residents who met the requirements to have backyard chickens and other domestic birds.

Most recently, City Council revisited the requirements of this specific code section and is further exploring the following in regards to the ordinance:

- Whether the lot size threshold of two acres should be reduced;
- If there should be a neighbor approval process;
- Whether a certain number of permits should be issued within an implemented trial period, and;
- Any other issues or concerns.

To help move the process forward, Planning Commission is collecting input from the public.

A discussion has been created on [www.BeHeardHarrisonburg.org](http://www.BeHeardHarrisonburg.org) to get feedback from the community and start a conversation on this ordinance. This discussion will be open until Friday, February 5.

To access this discussion, visit [www.BeHeardHarrisonburg.org](http://www.BeHeardHarrisonburg.org) and click on the discussion titled, "Chicken Ordinance." This will be open to all community members and registration to *Be Heard Harrisonburg* is not necessarily required but is recommended for future engagement opportunities through this site.

In addition to this online discussion, Harrisonburg Planning Commission anticipates opening up their meeting on Wednesday, February 10 to receive public input on this matter. The meeting will be held at 7:00 p.m. in City Council chambers.

*Who will notify you if an emergency-related event is happening in Harrisonburg or Rockingham County? Sign up to receive free alerts through the **Harrisonburg and Rockingham County Emergency Alert System** by visiting [www.HREmergencyAlert.com](http://www.HREmergencyAlert.com).*



###

Sec. 15-2-24. - Fowl, chickens and other domestic birds.

- (a) *Definitions.* *Fowl* is defined as any of various domestic birds by way of example but not limited to: Chickens, roosters, ducks, geese, turkeys, guinea fowl, emus, rheas, ostriches and pigeons.
- (b) It shall be unlawful for any person to keep, permit or allow any domesticated fowl within the corporate limits of the city, or to allow any domesticated fowl to run at large within the corporate limits of the city, except as specifically permitted below.
- (c) It shall only be lawful for a person to keep, permit or allow chickens within the corporate limits of the city on residential property only, under the following terms and conditions:
- (1) No more than four (4) chicken hens shall be allowed for each single-family dwelling. No chickens shall be allowed on townhouse, duplex, apartment or manufactured housing park properties. Chickens allowed under this section shall only be raised for domestic purposes and no commercial use such as selling eggs or selling chickens for meat shall be allowed.
  - (2) Each single-family dwelling shall contain at a minimum two (2) acres of land.
  - (3) No roosters shall be allowed.
  - (4) There shall be no outside slaughtering of birds.
  - (5) All chicken hens must be kept at all times in an enclosed secure movable or stationary pen that contains at a minimum four (4) square feet per bird.
  - (6) All enclosed pens must be situated at least twenty-five (25) feet from adjoining property lines and shall not be located in storm drainage area that would allow fecal matter to enter any city storm drainage system or stream.
  - (7) All enclosed pens must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors. Once a permit is obtained pursuant to this section, the permittee agrees to semi-annual inspections by the Virginia Department of Agriculture and Consumer Services veterinarians.
  - (8) All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
  - (9) Chicken litter and waste shall not be deposited in any trash container that is collected by any public or private waste collector and shall be disposed of by composting either on site or at the county landfill in accordance with the applicable permit. Also any dead bird shall not be deposited in any trash container that is collected by any public or private waste collector but shall be taken to the county landfill to be composted in accordance with the applicable permit.
  - (10) Persons wishing to keep chicken hens pursuant to this subsection must file an application with the city's department of community development, which application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed along with a twenty-five dollar (\$25.00) fee. The sketch must show all dimensions and setbacks. As part of the application process all persons must complete the Virginia Livestock Premises Registration with the Virginia State Veterinarian's Office prior to the issuance of a permit. Once the site and enclosures have been inspected and approved by the city's animal control officer, the city's animal control officer shall issue a permit, which permit shall be valid for one (1) year. Each existing permit must be

renewed annually by filing a renewal application with the city's department of community development along with the payment of the twenty-five dollar (\$25.00) annual fee and by having the city's animal control officer make another inspection of the site.

- (d) The above subsection (c) shall not apply to indoor birds, such as, but not limited to, parrots or parakeets, or to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl kept in areas of the city as a legal nonconforming use.
- (e) Fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this section; however, owners of the fowl will have ninety (90) days from the effective date to come into compliance with this section.
- (f) Any person found guilty of violating this section shall be guilty of a Class 3 misdemeanor and subsequent violations of this section by the same person shall constitute a Class 2 misdemeanor.

(Ord. of 8-11-09)

**Editor's note**— Ord. of 8-11-09, set out provisions intended for use as § 15-2-25. For purposes of classification, and at the editor's discretion, these provisions have been included as § 15-2-24.

# Chicken Ordinance Discussion

Section 15-2-24 – Fowl, Chicken and other Domestic Birds



## City Council would like to explore:

- Whether the lot size threshold of 2 acres should be reduced,
- If there should be a “neighbor’s approval added to the permit process,
- Whether a certain number of permits should be issued within an implemented trial period
- Any other issues not discussed in 2009

# Harrisonburg Planning Commission



## 2015 Annual Report

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<b>Other .....</b>	<b>8</b>
<b>Meetings and Worksessions .....</b>	<b>8</b>

# Planning Commission Membership

Deb Fitzgerald  
Chair

Henry Way  
Vice-Chair

Richard Baugh  
City Council Representative

Gil Colman

MuAwia De'Mes  
Board of Zoning Appeals Representative

Judith Dilts

Jefferson Heatwole

### Rezoning

Request	Planning Commission Action	Date	City Council Action
Westport Village Proffer Amendment (811 Port Republic Road)	Recommended for approval (6-0)	03-11-15	Approved
1320 Port Republic Road (B-2C Proffer Amendment)	Recommended for approval (6-0)	04-08-15	Approved
412 South Main Street (B-2 Conditional to B-1 Conditional)	Recommended for approval (6-0)	07-08-15	Approved
Chatham Square 2015 Amendment	Recommended for approval (6-0)	07-08-15	Approved
141 West Bruce Street (M-1 to B-1C)	Recommended for approval (6-0)	08-12-15	Approved
475 Lucy Drive/2065 Reservoir Street (R-3 to B-2)	Recommended for approval (7-0)	09-09-15	Approved
707 North Main Street (R-2 to M-1)	Recommended for approval (5-0)	11-11-14	Approved
137 West Water Street (M-1 to B-1C)	Recommended for approval (5-0)	11-11-14	Approved
Spotswood Country Club 8 Acres (R-1 to B-2C)	Recommended for approval (7-0)	12-9-15	Approved

### Special Use Permits

Request	Planning Commission Action	Date	City Council Action
1854 East Market Street (Section 10-3-91(9) Reduced Side Yard Setback	Recommended for approval (7-0)	01-14-15	Approved

15 Southgate Court (10-3-91(8) Reduction in Required Parking)	Recommended for approval (4-2)	03-11-15	Approved
961 Acorn Drive (Section 10-3-97(3) Business Office in M-1)	Recommended for approval (6-0)	06-10-15	Approved
1430 Red Oak Street (Recreational Use with Nontransient Dwellings)	Recommended for approval (6-0)	06-10-15	Approved
210 Charles Street (Section 10-3-97(2) Convenience Store in M-1)	Recommended for approval (6-0)	07-08-15	Approved
521 Blue Ridge Drive (Section 10-3-34(6) Major Family Day Home in R-1)	Recommended for approval (6-0)	07-08-15	Approved
141 West Bruce Street (Warehousing and Other Storage Facilities in B-1)	Recommended for approval (6-0)	08-12-15	Approved
206 South Avenue (Business and Professional Offices Section 10-3-97(3))	Recommended for approval (7-0)	09-09-15	Approved
1214 Windsor Road (MFDH 2015 Amendment)	Recommended for approval (7-0)	10-14-15	Approved
685 East Wolfe Street (Section 10-3-91(9) Zero Side Yard Setback)	Recommended for approval (5-0)	11-11-15	Approved
73 Rex Road (Section 10-3-40(6) MFDH)	Recommended for approval (5-0)	11-11-15	Approved
865 Port Republic Road (Section 10-3-55.4(8) Wireless Telecommunications Facility)	Tabled by applicant	11-11-15	N/A

### Street and Alley Closings

Request	Planning Commission Action	Date	City Council Action
Between 33-C-4 & 5 (1,610 +/- sq. ft. Perpendicular to & off of East Johnson Street)	Recommended for approval (7-0)	09-09-15	Approved

### Ordinance/Comprehensive Plan Amendments

Request	Planning Commission Action	Date	City Council Action
Parking Lot Landscaping Modifications 10-3-30.1(2) and (16)	Recommended for approval (6-0)	03-11-15	Tabled (04-14-15) Approved (05-26-15)
Section 10-3-97 (10) (To Allow Nontransient Dwellings with Recreational and Leisure Time Activities)	Recommended for approval (6-0)	06-10-15	Approved
Wireless Telecommunications Facilities and Radio Television Stations and Studios or Recording Studios in B-1	Recommended for approval (6-0)	06-10-15	Approved
Section 10-3-24 (To Align Definitions of Minor and Major Family Day Homes with recent changes to the Code of Virginia)	Recommended for approval (6-0)	07-08-15	Approved
Sections 10-3-135, 136, and 139 (To Align Article W Board of Zoning Appeals with recent changes to the Code of Virginia)	Withdrawn by staff	07-08-15	N/A

Section 10-3-85 To Add Warehousing and Other Storage Facilities as a Special Use in B-1	Recommended for approval (6-0)	08-12-15	Approved
Section 10-3-26 (To Allow Required Parking for Business and Professional Uses to be Off-Site within Specified Downtown Locations)	Recommended for approval (7-0)	10-14-15	Approved
Spotswood Country Club 8 Acres (Land Use Guide Change: Conservation Recreation to Commercial)	Recommended for approval (7-0)	12-9-15	Approved
Section 10-3-57.5(b) Maximum Density in R-7	Recommended for approval (7-0)	12-9-15	Approved

### Preliminary Plats

<b>Request</b>	<b>Planning Commission Action</b>	<b>Date</b>	<b>City Council Action</b>
Chand Development (Sub. Ord. Variance Section 10-2-42(c)) 081 00A 018 001 015	Recommended for approval (5-0)	01/14/15	Approved
Ramblewood Subdivison 097 00A 007 001 015	Tabled by applicant  Recommended for approval (6-0)	05-13-15  06-10-15	Approved
Charleston Townes Resubmittal 2012 Addition 080 00A 08A 001 015	Recommended for approval (7-0)	08-12-15	Approved

**Other**

<b>Request</b>	<b>Planning Commission Action</b>	<b>Date</b>	<b>City Council Action</b>
15.2-2232 Review Proposed Harrisonburg City Public Schools New Elementary School	Found to be substantially in accord with the Comprehensive Plan	04-08-15	N/A
Private School Off-Street Parking Approval Request - Minnick School (1661 Virginia Avenue)	Approved (6-0)	10-14-15	N/A
Public Utility Application - 1380 Blackberry Lane (Rockingham County)	Recommended for approval (7-0)	12-9-15	Approved

**MEETINGS AND WORKSESSIONS**

***Total Number of Regular Meetings: 12***

***Total Number of Worksessions: 0***

***Meeting Dates:***

- January 14, 2015
- February 11, 2015
- March 11, 2015
- April 8, 2015
- May 13, 2015
- June 10, 2015
- July 8, 2015
- August 12, 2015
- September 9, 2015
- October 14, 2015
- November 11, 2015
- December 9, 2015

# Department of Planning and Community Development

## Report of Annual Activity

Planning and Zoning Division

2015



CITY OF HARRISONBURG, VIRGINIA



## **ZONING ACTIVITIES**

Inspection of Zoning Requirements	186
Proactive Zoning Violations	173
Home Occupation Permits Issued	132
Comprehensive Site Plans Reviewed	53
Sign Permits Issued	81
Building Permits Reviewed	436

## **PROACTIVE ZONING ENFORCEMENT**

<b>Sector</b>	<b>Date</b>	<b>Violations Cited</b>
City Hall	January	4
Court Square	January	5
Bluestone Hills & Valley Mall	February	27
Preston Heights	February	7
Wyndham Woods	March	0
Northfield	March	19
Purcell Park	April	6
Parkview & Harmony Heights	April	11
Technology Park	May	1
Northeast	May	45
South Main	June	11
Fairway Hills	July	2
Smithland	August	3

## SUMMARY OF THE BOARD OF ZONING APPEALS (BZA) ACTIVITY

Address	Case Number	Appeal or Variance	Tax Map	Date	BZA Action
37 Paul Street	1501	Variance	25 M 7	5/4/2015	Denied

## MINOR SUBDIVISIONS

Request	Case Number	Staff Action	Date	Deed Book/Page
Fairview Add., Blk.4, Lots 19 & 20	011 00E 019 001 013	Approved	06-16-15	4584/697
First Presbyterian Church Plat – Reservoir Street	080 00A 001 001 014	Approved	01-02-15	4529/484
Mathias Boundary Line Adjustment	021 00C 003 001 014	Approved	03-11-15	4541/64
Vacation of Lot Lines 675 New York Avenue	023 00H 022 001 015	Approved	01-26-15	4525/161
Prop. Line Vac. & Adjust. 51-C-7, 9, & 10	051 00C 009 002 015	Approved	02-10-15	4530/470
Lot Line Vac. Between 41-B-8, 9, & 10	041 00B 008 001 015	Approved	02-27-15	4538/152
BLA Between 73-C-1 & 4	073 00C 001 001 015	Approved	03-06-15	4578/5
Wayne E. Engel, LLC Sub. (E. Market & Long)	027 00E 005 001 015	Approved	04-28-15	4561/211
Lot Line Vac. Lots 70 & 71, Sec. 4 Hol. Hill Sub.	039 00I 070 001 015	Approved	05-11-15	4568/561
Lot Line Vac. Between 139 & 143 N. Liberty Street	035 00S 002 001 015	Approved	07-01-15	4593/577
Lot Line Vac. Lots 7 & 8, Blk. 1 Boxwood Acres	001 00B 007 002 015	Approved	06-15-15	4584/177

Lot Line Vacation 821 South Dogwood Drive	023 00E 010 002 015	Approved	06-15-15	4584/707
BLA between 42-B-32 and 44-A-31	042 00B 032 001 015	Approved	06-18-15	4594/751
Redivision of Lot 1, Harmony Square Subdivision 2015	053 00I 001 001 015	Approved	07-21-15	4618/3
560 Ohio Ave. Lot Line Vacation	024 00A 001 001 015	Approved	07/28/15	4603/547
MS Lots 1 & 2, Blk 31, H'burg Land and Improvement Co.	039 00K 001 003 015	Approved	07-17-15	4600/16
PL Vacation Between Lots 23/Q/12-15	023 00Q 012 003 015	Approved	08-11-15	4609/86
Division of Lot 47, Blue Stone Hills Subdivision , Section 2	077 00D 047 001 015	Approved	08-26-15	4617/758
Rediv. Of Lots 19—23 Ashby Park Add.	041 00L 005 003 015	Approved	09-10-15	4669/421
Campus View Lot Line Vac. Between 81-A-3 & 81-E-7	081 004 008 001 015	Approved	12-07-15	4659/421
PLV and PLA Parcels 10-B-10 thru 14	010 00B 010 001 015	Approved	12-22-15	4675/448
PLV 501 Hartman Drive 36/AA/7 & 8	036 0AA 007 001 015	Approved	11-30-15	4656/689
Harmony Heights PLV Lots 1 & 2 Sec. 3	052 00K 001 001 015	Approved	01-11-16	4672/490

### FINAL PLATS

Request	Case Number	Staff Action	Date	Deed Book/Page
Northside Heights (Technology Drive)	044 00A 031 004 014	N/A	N/A	Withdrawn

Northside Heights	042 00B 07A 004 014	N/A	N/A	Withdrawn
Collicello North	040 00H 001 001 015	Approved	03-26-15	4547/646
Townes at Bluestone Section 2 Phase 2	080 00H 021 001 015	Approved	09-15-15	4625/477