



City of Harrisonburg, Virginia

Planning Commission Meeting

March 9, 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 February 10, 2016 regular meeting.

2) New Business

Capital Improvement Program

Consider recommendation of the FY 2016-2017 through 2020-2021 Capital Improvement Program to City Council.

Zoning Ordinance Amendment – Sections 10-3-24, 90, and 96 related to Plant Nurseries and Greenhouses

Public hearing to consider a request to amend the Zoning Ordinance Sections 10-3-24, 10-3-90, & 10-3-96 related to plant nurseries and greenhouses. The amendment would add landscaping businesses and similar operations within the definition of plant nurseries and greenhouses. Specifically the amendment would occur within Sections 10-3-24 Definitions, 10-3-90 (17) and 10-3-96 (16), which currently allow plant nurseries and greenhouses by right within the B-2 and M-1 districts, respectively. The amendment would also allow these uses to have small-scale, outdoor manufacturing, processing, storage, and treatment of products within the M-1, General Industrial District.

Zoning Ordinance Amendment – Section 10-3-24 Definitions, and Multiple Sections within Article W Board of Zoning Appeals (To Align the Zoning Ordinance with recent changes to the Code of Virginia regulating BZAs)

Public hearing to consider amending the Zoning Ordinance Sections 10-3-24, 132, and 135 through 140. Section 10-3-24 Definitions shall be amended by updating the definition of “variance” to align with changes to the Code of Virginia. Multiple sections within Article W, Board of Zoning Appeals shall be amended by updating existing sections in order to align with recent changes to the provisions of the State Code and to make general housekeeping corrections within the Article.

3) Unfinished Business

None.

4) Public Input

5) Report of secretary and committees

Proactive Zoning

6) Other Matters

Discussion Regarding Revisions to Section 15-2-24 Fowl, Chickens and other Domestic Birds (commonly referred to as the Chicken Ordinance)

7) Adjournment

Staff will be available Tuesday April 12, 2016 at 4:30 p.m. for those interested in going on a field trip to view the sites for the April 13, 2016 agenda.

MINUTES OF HARRISONBURG PLANNING COMMISSION
February 10, 2016

The Harrisonburg Planning Commission held its regular meeting on Wednesday, February 10, 2016 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

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

Members absent: Gil Colman and Judith Dilts.

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

Chair Fitzgerald called the meeting to order and said there was a quorum with five of seven members in attendance. She then asked if there were any corrections, comments, or a motion regarding the January 2016 Planning Commission minutes.

Mr. Way moved to approve the minutes as presented.

Mr. Da'Mes seconded the motion.

All members voted in favor of approving the January 2016 minutes as presented (5-0).

New Business

None.

Unfinished Business

None.

Public Input

None.

Report of Secretary and Committees

Chair Fitzgerald asked for a summary from the secretary and other committee members.

Mrs. Banks said proactive zoning visited two areas again this month; the Garbers Church Road area where they found four violations and the Westover Park area which had 32 violations. All violations consisted of inoperable vehicles, signage, and miscellaneous debris. The inspectors will visit two more areas next month.

Mr. Baugh said at City Council last night we took up three matters that came from Planning Commission and all three were approved unanimously. The items were the Special Use Permit (SUP) for a major family day home, the SUP for occupancy of four unrelated in R-2, and the wireless telecommunications amendment.

Continuing on with another topic, Mr. Baugh said he did have one other matter to bring up that stems from a recent City Council work session; however, he would wait to bring it up until after tonight's public input on the chicken ordinance.

Mr. Way said at the Plan Our Park meeting this month we had a discussion about the history of some historical preservation and architectural review boards. Mr. Fletcher was there as well.

Mr. Fletcher said there was some conversation regarding input with the Comprehensive Plan update coming up. A next meeting time was not determined.

Mr. Da'Mes said he attended the Rockingham County Planning Commission meeting this month and they had a rezoning request and several amendments. The thing of interest on the amendments was Dominion Power looking into solar farms; therefore the amendments were to accommodate some of those types of facilities. They are also very interested in our discussion here tonight.

Mr. Heatwole said he met with the Bicycle and Pedestrian Committee and they are putting together an internal priority list. I should have more information next month on the overall schedule of things.

Other Matters

Chair Fitzgerald said at this time we will take public comment and discussion regarding revisions to Section 15-2-24 Fowl, chickens, and other domestic birds – commonly referred to as the Chicken Ordinance. I believe Mr. Fletcher has some comments before we begin taking public input on the ordinance.

Mr. Fletcher said I just want to highlight a few things that were included in the packet. I also have a few slides that are to be used for visual reference tonight if needed. Last month Dr. Don Hopson – Regional State Veterinarian, which the Planning Commission invited to speak regarding the avian influenza, was here and there was a discussion about the virus. There was also some general discussion about the backyard chicken operations and how we might want to look at amending the ordinance.

Mr. Fletcher reviewed the four talking points that City Council had given to Planning Commission to discuss and said remember we are not looking to recreate the wheel, but more to focus on these topics. The topics include: the two acre threshold, should there be a neighbor's approval, issuance of only a certain number of permits, and if there are major topics that are not covered already within our existing ordinance.

Last month Planning Commission also asked staff to check with Officer Earhart, the Animal Control Officer with the Police Department, to see if there had been an increase or decrease in the number of backyard chicken violations since the 2009 ordinance was adopted. Her response, which was included within your packet, was that she did not have a concern with reducing the lot size square footage requirements or increasing the number of allowed hens. She suggested keeping the minimum setback requirements from property lines, restricting the hens to only single family (detached) home lots, and to continue to prohibit roosters and slaughtering. Officer Earhart says that she appreciates that the City already has an existing permit process in place because it provides a paper trail for her to be able to enforce the ordinance.

Mr. Fletcher went on to remind the group that this is not a Zoning Ordinance regulation, it is an animal control ordinance. Officer Earhart specifically noted that the number of complaints since the 2009 implementation has pretty much remained the same; but the outcomes have

improved tremendously because there is an ordinance in place – something she can show them and refer to.

Included in the packet was a copy of the discussion from the “Be Heard Harrisonburg” blog. Also within the packet there are suggestions from the Harrisonburg Stormwater Advisory Committee, comments and suggestions from the Virginia Poultry Federation, the existing ordinance, and again a copy of the talking points.

Mr. Fletcher continued by describing several maps that staff had prepared and added to a Powerpoint presentation for visual reference when discussing the chicken ordinance this evening. The maps showed a standard 10,000 square foot lot with several different setback scenarios. Another map illustrated the 1,000 foot buffer that has been suggested by the Virginia Poultry Federation, which would buffer feed mills, poultry processing plants, hatcheries, poultry company truck lots, and any active poultry farms within the City. If the City felt this was a good regulation to adopt, this demonstrates the areas that would not be allowed to keep chickens. That is all I have to share with you this evening.

Chair Fitzgerald said we are not having a formal public hearing, we are just asking folks to come forward and talk, after which Planning Commission will have some discussion about where they would like to go with this.

Mr. Da’Mes said I would like to recognize that there were 46 inputs and 32 participants with the BeHeardHarrisonburg blog regarding this topic. I would like to suggest that all of the BeHeardHarrisonburg conversation be entered into the minutes.

Mr. Fletcher said we can certainly do that.

The information herein was copied from <http://beheardharrisonburg.org/>.

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

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 than 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%2Fpoulsoci%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 be 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

Citizen Unknown Comment from Feb 05, 2016 at 4:08pm

I believe backyard hens can be a real asset to a community: healthy food, sharing (Eggs) and cooperative caring (seeing after others' hens when out of town).

Citizen Unknown Comment from Feb 05, 2016 at 4:27pm

I also support backyard chickens, with appropriate houses and/or fencing to protect from neighborhood free-range. Definitely lesson the lot size requirement, and place a maximum on the number of hens allowed. No roosters. Follow the models already in place by other similar cities, and families will be able to enjoy raising chickens and delicious fres eggs!

Aniko Safran, 87 Laurel Street, said she moved here from Salt Lake City about one and a half years ago. A lot of my friends and neighbors in Salt Lake City had chickens and we actually thought it was great. They were never a bother and there were no smells. Each year they would have a "tour the coop" where you could go around and tour the different style chicken coops. There was no need for us as neighbors to authorize anyone keeping chickens. It is important to be able to talk to and be friends with your neighbors; but when you add an authorization for something like chickens, it can set up animosity between neighbors that is not necessary. It would be great if the property size that allows chickens could be smaller so that more people could have them.

Mr. Way asked if roosters were allowed in Salt Lake City.

Ms. Safran replied they did not allow roosters, although you would occasionally hear some.

Brian Martin Burkholder, 1246 Upland Drive, said I am in favor of decreasing the lot size and keeping the remainder of the ordinance as it is with one exception. It seems to me that the best scenario would be for the hens to be in the "chicken tractor" type of pen that can be moved around the yard each day. This is partly because about 20% of a chicken's diet is grass and they could then be put on new grass every day. It is also easier to maintain the cleanliness of the pen with a movable pen. If the 25-foot setback is maintained it very much limits the space that the chickens can be moved, which I believe is the more sanitary option. The existing setback limits mean there would be more chickens in enclosed pens, increasing the maintenance requirement. I would hope for a 10-foot setback, similar to the out buildings in one's backyard. I would generally argue that they should have the same setback because out buildings are usually in the back yard, not the front, and folks might be more offended by chickens in the front yard.

Mr. Fletcher said if I could add something with regard to the setbacks that I meant to mention earlier. The applications of the setbacks really kind of work together; the way that staff would interpret what the structure would be for a chicken coop would be an accessory building. Therefore, they would not be permitted to be located within the front yard as per zoning regulations. We did not represent that on the map illustrations; but that is how zoning would interpret it. As we move forward with this I feel there should be some clarification of what the language is, for instance, what is meant by an enclosed pen. And to be clear, the accessory building setback in residential is five feet, not ten.

Mr. Way said how much detail can we get into on what the pen or enclosure should look like?

Mr. Fletcher said that would be entirely up to you.

Mr. Martin Burkholder said if five foot is the accessory setback, then I would propose a five foot setback for chicken coops.

Fred Fox, 700 New York Avenue, said thank you for having this hearing. I am going to refer to the four talking points listed. Reducing the required acreage – I would not be in favor of that. We do not have numbers here about how that spreads out across the community, but in my own area, the ponderous of people do not want chickens in the neighborhood or to decrease the size. In terms of neighbor's approval, I have not heard of anyone who is in favor of that. In terms of number of permits – either you are going to do it or you are not going to do it. With other issues not previously discussed, I would refer to the blog information that we wrote. I still maintain that there is a health issue here; just as Flint, Michigan is dealing with water, you are dealing with poultry. On Sunday the New York Times ran a lead article on “Has the flu returned” and provided very significant figures about what is happening throughout the world regarding epidemics. The flu epidemic last year came from Asia and it resulted in 48 million birds being destroyed in the United States, within 21 states. It was described as the largest avian flu epidemic in the history of this country. There is no full-proof way of predicting the flu. Granted other cities may be allowing this, but keep in mind in your deliberations, it could happen and you need to reflect on that.

Unfortunately the argument from the point of view of our neighborhood is a bit skewed, having had experience with someone who chose to have chickens without going through the application process, without having paid fees, and without allowing inspections. There is no idea of how waste was being disposed of. When the chickens were taken it was not a pleasant event. In all of the discussion within the blog, I do not see any acknowledgement of what is happening right now regarding violations. Nor do I see anyone addressing future compliance. I would ask that you weigh again the health issues and the oversight and administration of this.

Chair Fitzgerald said for those of you who may not be aware Planning Commission did have a presentation from the State Veterinarian's office about the avian flu and we did receive a lot of information on those very topics.

Michael Zook, 484 South Mason Street, said I have been in the chicken business before and I feel that people may not realize that having chickens is a lot of work; it is not just fresh eggs. I really do feel that if there is an ordinance that allows more people in the City to keep chickens, I think it would be a small percentage of people in the City who would actually keep them. In reviewing the four comments, I agree with the previous gentleman who spoke, except for number one – I do feel that the acreage should be reduced.

I live in Old Towne and I deal with college students across the street that are worse than any chicken or pet and I have no say in that. This was just passed in 2009 with a two acre minimum and if you lower it and it becomes a problem you can always go back.

Smith Coleman, 665 Elmwood Drive, said I have been around chickens for much of my adult life; I have raised chicks, had flocks, and worked with chickens in a rural setting. I think that chickens are a real delight for a lot of people. I am in favor of reducing the acreage, I am in favor of something like a ten foot setback, and I am in favor of the idea of having something that you can move around in the yard because chickens do feed heavily on grass. I am not a scientist,

but I do not think that you can draw a line between bird flu and backyard chickens. The birds that land on my bird feeders are much better at moving around than chickens.

I also want to say that, like anything else when you are thinking about policy or restrictions, less is best. It is hard for me to see why people with two acres can have four birds and my children cannot. It does not make much sense.

Tom Benevento, 910 Collicello Street, said I want to say that I really appreciate being in a City where citizen's concerns and hopes are really looked at carefully. I applaud all of you that have spent so much time looking at this and many hours reading documents. I have two points that I wish to express. One is the urgent need to create more secure and healthy food systems and the second is to inform more people to be involved with where their food comes from.

The concern for avian flu is real and serious and I appreciate the hard work of scientists and farm workers who help to keep that at bay; however, Susan McMillian, a Senior Director with the SPCA, notes that "avian flu is a window into how today's poultry flocks live day-to-day in terms of confinement and unsanitary conditions. Outbreaks of avian flu are a signal to us, that there are current industrial agricultural practices that are unhealthy, unsustainable, and manifestation of a broken system." According to the USDA, backyard chickens actually show us the solution to avian flu. Everywhere they have been exposed to the virus they are more immune. Backyard chickens are maintained by logical diversity and are given sunlight with air flow, which is lethal to avian flu.

Backyard chicken waste has no antibiotic arsenics and consequently it quickly decomposes into usable compost for home gardens. Additionally, recent studies have found that eggs from pastured chickens, like those in the movable coops, offer four to six times more vitamin D, one third less cholesterol, one-quarter less saturated fat, two thirds more vitamin E, and two times more omega three.

Mr. Benevento continued by telling an account of an experience he had when finding a young chicken that had fallen from a poultry truck. He said the bird was covered in fecal material, its beak had been clipped, probably to keep them from pecking one another, and he realized it had never walked before because it had been caged its entire life. The chicken's breast was designed to be so heavy that it really could not walk or run. This is just a powerful experience in reality of the life of these chickens.

Whitney March, 441 East Gay Street, I am in favor of chickens in the City. I do not know much about chickens, they sound like they would be fun; but, as said, they may be more of a financial and time investment than a lot of people realize. I would really be interested in having backyard chickens, I do not know our square footage, but it is a fairly decent sized yard. Maybe limiting the number you could have would be a good idea. As far as neighbor approval, that may be a bit awkward. I have a friend who has four chickens in a rather small yard and I do not find them a problem. I believe with the effort put forth I feel it is something people should be allowed to do. I also think it is a very small population of people who want to keep chickens.

Bill Grant, 341 New York Avenue, said I am no expert in chickens, but I am in favor of allowing backyard chickens. Having read a bit about the debate in Staunton over backyard chickens and having spoken to several folks locally, I just wanted to add my voice to the list of those in favor. I support reducing the lot size and also, I do not think a neighbor's approval is desirable.

Quillon Hall, 675 New York Avenue, introduced his family and said we would like to have chickens. We are in favor of reducing the lot size, we do not feel that you should have to ask your neighbor for approval, and I do not know if you need to regulate the number of permits – I do not think there will be a lot of people rushing out to get permits. I would like to address the concern brought up earlier about the avian flu. At the last Planning Commission meeting you had Dr. Hopson speak with you, and I have the minutes from the meeting here with me. I would like to quote a question from Mr. Baugh directed to Dr. Hopson, “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 responded “I do not believe so. There is nothing that tells us we have to have so many square feet for each bird.” Mr. Baugh continued “I am asking about the composting area, is there a minimum?” Dr. Hopson replied “There is no minimum standard.”

Hobey Bauhan, President of the Virginia Poultry Federation, said I appreciate you listening to all the comments tonight. I do want to add that Dr. Hopson is the expert on avian influenza and it is a serious issue. I have dealt with issues related to outbreaks and I would be happy to answer any questions you may have. The main thing that our organization is interested in, and we understand that folks would like to have backyard chickens, is protection of the poultry industry. I think we have proposed some reasonable protections for the commercial poultry industry via the setbacks that we suggested from critical infrastructure for the industry. I hope that you will give that some serious consideration.

I do want to say that there has been some information discussed tonight that I would like to speak to. The Commonwealth of Virginia produces about 250 million broiler chickens annually; that is part of what it takes to meet the demand for poultry to feed the world. It is fine if someone wishes to raise their own, that is fine; but do not be critical of what is providing poultry meat to the vast majority of people in this country. It was stated earlier that these birds spend their entire lives in cages; of the 250 million broiler chickens in the Commonwealth each year, no bird spends any time of their life in a cage. Poultry is raised in climate controlled poultry houses, great efforts are made to provide clean water and a sanitary environment. Anything other than that would be detrimental to the flock. The notion that birds are not able to stand up is false, and that of arsenic laced antibiotics is false. I would invite you to reach out to the Poultry Science Department at Virginia Tech to learn more about the facts instead. Anyone who desires to raise their own food should be allowed, there is nothing wrong with that; but, please do not use misinformation to tear down what is really feeding the world.

Mr. Heatwole asked about the reasoning for you to ask to increase the setbacks on property lines from 25-feet to 35-feet.

Mr. Bauhan said it is to provide additional protection. I do think that having the birds away from roadways is important. The avian flu can affect backyard chickens. I like hearing the discussion of having the chickens in the rear yards only as opposed to front yards. But as far as the exact footage, you all probably have more expertise than me.

Mr. Heatwole said my other question is with regard to your logic of having the pens covered; is that because of the risk of avian influenza, which is usually spread by water fowl?

Mr. Bauhan replied yes.

Mr. Way said you suggest a 1,000-foot buffer from property housing a poultry processing plant, hatchery, feed mill, truck parking lot and farm; again, what is the rationale for that number?

Mr. Bauhan said the rationale is I looked at a map of the City and got a general idea of where these facilities were and tried to provide a decent setback from the commercial uses.

Michael Zook, owner of Great Outdoors Landscaping, said I am wearing a different hat this time to speak. I want to reiterate what Mr. Bauhan said, respect what the poultry industry is doing. I have a father-in-law that raised chickens for 33 years, and when he went out of town I was the “chicken farmer.” It was not something that I loved, but I certainly respect that is how someone makes a living. I do think we need to respect a buffer around the poultry industry; but I also think Harrisonburg is big enough that folks outside of those areas should be able to raise backyard chickens if they wanted to. I am not a scientist, but I am probably more afraid of mosquitoes right now than the avian flu.

Quillon Hall added that one thought he had after speaking with Dr. Hopson at the last meeting is that I do not think people are aware of what to do in the event that their chickens do get the avian flu. People need to know what precautionary measures to take. I think that when people apply for a permit, they should be given the number to the State Veterinarian office so that they have it handy and do not cause any more risk if something were to happen with their chickens.

Chair Fitzgerald said you are suggesting an educational piece along with the permit.

Mr. Hall said I think it should be added so that someone applying for a permit with the City would know what to do in the event that something was to happen. I do not want to do anything that would harm the chicken industry and I think this would just be common sense to include with the permit.

Mr. Bauhan said the USDA has some really good resources and literature on bio-security for backyard chicken producers and there is most definitely a contact number that can be provided.

Poti Giannakouros, 98 Emery Street, said I am not going to be getting chickens in my backyard, I have companion animals, I do not own my companion animals, and they come and go as they please. As you all know this is not about chickens, this is about people. I think that we have seen enough of the science, and the State Veterinarian last time made a very telling statement last month about a backyard flock can be infected just like a commercial flock can; we never did get to the direction of the causality of whether backyard chickens infect commercial flocks.

This issue is about people. Are we going to live in a City that is changing – where people of different cultures and different socio-economic backgrounds can peacefully co-exist with each other? I can speak as a member of the board for the Northeast Neighborhood Association, where I have had a chance to see a window of a very diverse setting and I see the cultural differences that folks have. I see that there is a potential that, if the City could ease up, loosen regulations, and provide an educational role there would be an opportunity for people who may be new to one another and do not have a way to talk to one another, could meet over some common grounds – chickens. I think this is a great opportunity, and I think it is time. Harrisonburg is ready to make some of these changes. So please, no minimum lot sizes, no setback limits, no neighbor permissions, and I think the poultry industry will see that the right thing to do is to get behind their workers and customers.

Mr. Way asked how this would be an issue of socio-economic integration and bringing different groups together.

Mr. Giannakouros replied different people want backyard chickens for different reasons. That alone is an opportunity for people to cross a social boundary. There are people who may have grown up in an area where the neighbor had chickens and would like chickens now. There are other folks who maybe never had to have subsistence agriculture in their own yard and they may be interested in backyard chickens – they can communicate about their very different experiences. I think we span those cultural dimensions in this City. There are people who want to do everything they can to be away from the farm once they are in the City and they have very specific reasons and there are people who cannot see why you would not want nature, like chickens, in your neighborhood. It would be good for those individuals to talk to one another to understand what their history may have been and why they may have the opinions they do. We saw some of this in the BeHeardHarrisonburg dialogue. Hopefully the City will let that type of dialogue continue; it is a very healthy, positive thing. I have seen people in a neighborhood who have not talked to one another – this could be a great opportunity.

Aniko Safran said she would like to second what Mr. Giannakouros just said. A lot of us live in culturally mixed neighborhoods and it is very true that people come together to talk about chickens.

Tom Benevento said I appreciate the hard work that Mr. Bauhan and his organization does. I would like to incorporate some sort of educational component so that people can know what avian flu looks like and other ways of treating chickens.

Mr. Way said while we are talking about education, the current ordinance does not allow chickens to be kept on school property; only on residential property.

Mr. Fletcher said yes, only on single-family detached lots.

Chair Fitzgerald asked if there was any further input on this. Hearing none, she asked the Planning Commission for thoughts and discussion.

Mr. Baugh said I have been looking at the map of the 1,000-foot buffer that staff provided and it actually does not cover very much residential area. I would like to go to the two points of whether or not we should consider a permit limit and then the other of the possibility of considering a neighbor waiver. It is interesting that there is not a whole lot of enthusiasm on either side for these two points. The idea with both of them is trying to see if there is any middle ground in this. What you tend to find with this is that people who want chickens – want them; and people who do not want chickens – do not want them period. I feel fairly confident that within the City you have got neighborhoods where you probably have got enclaves where backyard chickens would be very popular and enclaves where backyard chickens would be very unpopular. There is no way for us to write a City wide ordinance that lets you do this on a neighborhood basis. So those two points were a way to kind of try and get at that.

The poster child for this approach is Ann Arbor, Michigan. Their ordinance, in terms of general structure, looks a whole lot like ours. They do have the provision as part of the permit that you must get a written blessing from your contiguous neighbors – those neighbors that touch your side or back, not across the street. It also has a five year renewal process for permits.

My sense of this ordinance is they did this neighbor approach and they found that it worked. They went through a very contentious process to get there; but decided that was the direction they wanted to go if they were going to allow chickens. I think they would tell you that once they enacted it, they did not have anywhere near the problems or contention that many told them

they would have – everybody got used to it and moved forward. What I did find interesting about it is just last year they tweaked the ordinance. Instead of having a four hen limit they created two categories, a two and a six. And with the neighbor waiver, instead of having to get neighbor approval you have to give everyone notice that you are applying for chickens and if the neighbors want to object they have to do so. This raises the bar a bit higher for the neighbors. Also, within the categories, they said when it comes to two or fewer birds you have to have a real problem before we will consider an objection to birds.

I wanted to get this information out on the table, just so we know what other possibilities are and whether anyone feels it is something we want to consider.

Mr. Way asked if the City had very many active home owners associations.

Mr. Fletcher replied we have many associations, but active is the key. Most of the townhome communities will have them and any community the has a private street will have them.

Mr. Baugh said this is a good thing to get out onto the table, and this got vetted rather thoroughly in 2009. Residential neighborhoods are going to fall into one of two categories. You will either have some sort of restriction with a neighborhood or you do not. If you do not then the City ordinance alone governs. If you do have restrictions then, and this did come up in some of the 2009 public input, the association may have a prohibition to poultry. Then the question of enforcement comes up and is the association active. In theory there is a mechanism to enforce the association regulations, but in reality it may not happen.

Mr. Way said I certainly understand; I am just trying to gain the sense that each neighborhood might be a bit different and is there a way to capture that.

Mr. Fletcher said there is a very small population of active homeowner associations.

Mr. Heatwole suggested that Planning Commission start from the top of the bullet points and discuss each one. On the lot size restriction of two acres – basically it is a de-facto ban. This recommendation that came from the Poultry Federation that speaks more to the setbacks, than acreage would remove that ban. Therefore, would it not be better to structure an 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 industry and reasonable for them. Focusing on the reasonable part, would it not be better to run it more with setbacks than on the lot size. Also, to add to the setback, I want to say I like the idea of having the pens covered. So possibly, you could have one setback for a permanent pen and maybe a different setback for movable structures.

Mr. Way asked if staff had any thoughts about a definition for a pen.

Mr. Fletcher said the fact that item C, number 5, states that “all chicken hens must be kept in an enclosed secure movable or stationary pen” – when Mrs. Banks and I discuss zoning we know that enclosed means four walls and a roof above. However, I have noted to make a change to say “...kept in a covered, enclosed pen...”, if that is where you are headed with this, we can certainly make that change to be more specific.

There was a consensus among the Commissioners to make that change.

Mr. Way suggested reducing the lot area to 7,000 or less square feet.

Mr. Heatwole said again if you make it by setback rather than lot size, you add all single-family lots.

Chair Fitzgerald agreed and said it is much more flexible.

Mr. Da'Mes said I agree with Mr. Heatwole; however I feel we need to make sure we emphasize the poultry industry and the detriment that the influenza would have on the poultry industry, on jobs and the economy. I think we need to express why Harrisonburg is unique when compared to other communities when it comes to backyard chickens.

Chair Fitzgerald said yes, even though it might be relatively low, just the probability of having to kill thousands of birds for no good reason other than they are sick, is something we need to consider. It is not like they would be killed to provide food for people throughout the country or world, but just killing them because they are ill. This is something we are trying to avoid here.

Mr. Heatwole said the two biggest things in my mind that would help to mitigate that are making sure that the people know the requirement of having a roof over the birds and to make sure that those people getting permits are aware of the risks, know what to look for with a sick bird, and where to call for assistance. Give to each applicant the USDA information brochure so that they are aware of these things.

Mr. Baugh said I think that is a good idea. Presumably, if we go down this path, for the people who come in to get a permit it just makes common sense to provide them with the information from the USDA.

Mr. Fletcher said I am sure that Mr. Bauhan can assist us in getting the right information from the USDA.

Mr. Bauhan said the USDA has a lot of web based information, but they have many brochures as well. You can get in touch with the USDA and they will provide you with boxes of these brochures that are specific to small backyard flocks.

Mr. Way said when we talk about a residential neighborhood like R-1 or U-R, special use permits and other uses like daycare and schools can be permitted within those districts; correct? Does this ordinance allow those other residential uses to have backyard chickens?

Mr. Baugh said not as currently written. It is only single-family detached dwellings. I know this body spends most of its time in the "zoning world;" but this particular ordinance is not defined by the zoning district, it is defined by the actual use – a single-family detached dwelling. Changing that is not one of the points we have been specifically asked to tweak.

Mr. Way said I am just thinking there are other uses that fall within a residential neighborhood, such as churches, schools, and daycares, that might want to have chickens for an educational purpose.

Mr. Baugh said for whatever it is worth, I have only been approached with that idea once, and it was by a church.

Chair Fitzgerald said the idea of expanding this past the residential use is something that I would have to be convinced that the diffuse responsibility of a church, or a group of people that kind of come in and go away, would be the right choice for maintaining birds. Especially given some of the things we have heard tonight. I am on board with single-family dwellings only right now.

Mr. Baugh said there is no contingency advocating for such right now; whereas, there is a large group of residential homeowners desiring to keep chickens.

Mr. Heatwole said are there currently setback requirements for pens that are containing any other type of pet?

Mr. Fletcher replied if the question came up of where can I place my dog house on my property, the answer would be five feet from the property line; however, the fencing around the house could be right on the property line.

Mr. Heatwole inquired if a covered chicken house would be considered a structure?

Mr. Fletcher replied yes.

Mr. Heatwole asked what that requirement would be.

Mr. Fletcher replied with the existing ordinance it is 25-feet. If you are considering changes, we would look at it as it must be placed within the rear yard and I suggest putting that into the chicken ordinance.

Mr. Heatwole said if we work up something that required permanent pens to have a 25-foot setback and mobile pens could have a 10-foot setback; does that seem reasonable.

Mrs. Banks asked why the permanent structure needed a greater setback.

Mr. Heatwole said just thinking that there may be small lots that would not have enough room for the 25-foot setback for a permanent structure; but, they may have enough room for a movable pen with a 10-foot setback.

Mr. Fletcher asked are you saying that with a mobile pen you are required to move that pen and how often.

Mr. Heatwole said given the fact that chickens like to scratch a lot and eat grasses, you would want the pen to move around.

Mr. Fletcher said it may be a really good question for the animal control officer.

Mr. Baugh said it does kind of beg the question “will this cut a break for some people?” It does raise the question that if it is regulated to setback, does it matter if it is fixed or movable. The flip side of that is it helps people with smaller lot sizes; but, a large lot size is now more restricted. If easier is what we want the setback to be, then perhaps we should just simplify it with a smaller setback.

Mr. Way said if we are talking about reducing the lot size requirement, then 25 feet is a lot. I may have to go with reducing the requirement to ten or even five feet. You do not really gain anything with the 25-foot setback unless there are some compelling health, safety, hygiene issue to deal with.

Mr. Heatwole agreed that reducing the 25-foot requirement was okay. I also support the 1,000-foot buffer from any poultry processing plant, feed mill, truck lot, or poultry farm. I think that is just common sense.

Mr. Way said I respectfully disagree with that one. I would actually suggest a buffer; but not the 1,000 feet.

Mr. Da'Mes said I agree that 1,000 feet may be a bit excessive.

Chair Fitzgerald said there is no disagreement about a buffer it is just the distance of the buffer.

Mr. Fletcher said with a buffer as shown there will also be the situation of parcels having a portion of the lot in the buffer zone. How would that be regulated?

Mr. Baugh said this may be something that staff should look at more closely. I certainly like the idea of what the Poultry Federation is suggesting along the lines of the buffer. What I would like to inquire about is what are the County requirements for setbacks of poultry houses. If I remember correctly, it is relatively small. Would it make sense for the City to have a buffer restriction that is significantly greater than what is required by the County?

Chair Fitzgerald said do we need to press pause at this point and collect some more information, such as that from the County.

Mr. Da'Mes said should we give staff some specific direction so they do not have to interpret our ideas.

Mr. Heatwole said let us go through each bullet point we have been asked to explore, line by line, and give staff what we are interested in seeing.

Mr. Da'Mes said I believe we have a consensus on lot size. We are interested in regulating by setbacks as opposed to lot size.

Mr. Way said what is meant by consensus of setback; because I am in favor of a five foot setback.

Mr. Baugh said I like the idea of getting rid of the lot sizes. The two acres was to establish a framework. I am thinking from an enforcement standpoint, if you go with a lot size, then animal control needs to know how big your lot is. A setback would be much easier to enforce.

Mr. Fletcher said you are essentially talking about eliminating subsection C (2) which reads "Each single-family dwelling shall contain at a minimum two (2) acres of land."

There was a consensus to remove subsection C (2).

Chair Fitzgerald asked what is the setback that we want to propose.

Mr. Way said I am not convinced that five is the magic number, but I believe it is a good starting point. Would that be changed within subsection C (6)?

Mr. Fletcher said may I offer a suggestion. Within subsection C (5) or (6), staff will write language describing that the pen will be considered an accessory structure as per zoning, or something along those lines, and then we will all know what we are referring to.

Mr. Heatwole said with regard to the neighbors approval, are we all not in favor of acquiring that?

Mr. Da'Mes said I think a valid point was brought up in terms of that. What if there was a neighbor that was adamantly against chickens and has a valid reason. We should be able to hear that.

Mr. Heatwole said we should be able to hear that, but does that require a neighbor's approval? That could be something that is done at the permit process to see if there are valid neighbor reasons for not having chickens.

Mr. Way said some type of notification at time of permitting to tell the neighbors what is being requested.

Mr. Baugh said I do not think the notice issue is a problem; it could be done through the permit process. My question is what is the dispute resolution mechanism? That is the piece that hits me as we discuss this. I am not certain, but I believe appeals regarding animal control go right to court.

Mr. Fletcher said an enforcement mechanism is very difficult for interpretation purposes. What is a legitimate reason to not allow the chickens?

Mr. Da'Mes said I think we are going in a direction that we do not need to go. Again, I point out that you can get a dog or other animal that is kept outdoors without neighbor approval.

Mr. Heatwole agreed.

Mr. Way said philosophically, there is an element of trying to enforce civic spirit with this; perhaps it is better handled by the individual neighbors.

There was a consensus that a neighbor approval was not needed.

Chair Fitzgerald asked where do you stand with issuing a certain number of permits within a specified trial period.

Mr. Baugh said the rationale behind this was meant to alleviate the idea that as soon as you open this up to all parcels, you are going to get hundreds of chicken permit applications in sixty days and overwhelm the system, which would create problems. The idea was to allow a more orderly transition towards more chickens.

There was a consensus that issuing a certain number of permits was not necessary.

Chair Fitzgerald asked what other issues would you like to discuss.

Mr. Heatwole said back to the buffer issue. I think we should research further into the proper way to create that buffer. We do not want to cut someone's property in half. Is 1,000 feet necessary, what is the reasonable number for the buffer?

Chair Fitzgerald asked staff if that was clear enough.

Mr. Fletcher said the area within the 1,000-foot buffer that we are most concerned about is the area downtown where there is a processing facility and feed mill. I am just trying to flush out what I believe Planning Commission is referring to with the buffer. We can definitely investigate it and quite honestly, I do not know where we are going to end up with this. Because what you are saying is that you would like for staff to arbitrarily determine which parcels should, or should not, be in the 1,000-foot buffer, based on their boundaries. What I was trying to focus on was the travel routes of poultry trucks and trying to figure out if a property was within that route.

Mr. Heatwole said I was looking more for a suggestion from staff on a good way to create a common sense buffer around these areas. Is it 1,000 or 800 or whatever and why? I really like the idea of a buffer.

Mr. Way said what about just saying the properties directly adjacent to or adjoining any of these listed uses from the Poultry Federation. That creates a bit of a buffer. If your property is directly

adjoining a poultry processing plant, a feed mill, a hatchery, a truck lot, or a poultry farm you are within the buffer zone. Does that capture the key issue?

Mr. Heatwole said it does for me.

Mr. Da'Mes said we are trying to mitigate influenza as much as possible with this. What is the right balance?

Mr. Heatwole said it creates a buffer.

Mr. Da'Mes said is that sufficient from a scientific standpoint? Is there someone who can tell me a bit more about that?

Chair Fitzgerald said I do not think there is an answer to that question.

Mr. Baugh said again, it would be worth seeing what the equivalents are in the County.

Mr. Bauhan said we have concerns with chickens in the County as well and there is not anything in the County that says backyard chickens have to be so far from commercial poultry houses. The key is to identify where you may have industry vehicles coming in and out of the area every day and what is the buffer for those vehicles.

Mr. Heatwole asked if it would be prudent to ask Dr. Hopson. If anything he may have data to support the buffer distance.

Mr. Quillon Hall said I think the simpler the better – adjacent to and directly across the street from, that is very clear.

Mr. Bauhan said I think adjacent is good; whether it is adequate, I cannot speak to that.

Mr. Way said the thing with the adjoining lots is it is very clear; you are either adjoining or not. It is a map that can be read by anyone.

Mr. Da'Mes said let's go with a map of the adjoining parcels and then ponder it when we see it.

Chair Fitzgerald said we have moved through our bullet points. Is there anything else that we need to discuss?

Mr. Heatwole expressed the need to get some type of educational brochures from the USDA that could be handed out to the applicants.

Mr. Way said Dr. Hopson did bring up the notion of disposal of the bird carcasses.

Mr. Da'Mes said I believe subsection C (9) addresses that rather well.

Mr. Way asked if it is appropriate to take the carcass to the County Landfill or does it need to be disposed of on the property.

Mr. Fletcher said I believe Dr. Hopson was only referring to birds that were sick.

Mr. Da'Mes said I believe it was for all birds.

Mr. Fletcher said perhaps we should do some research on that matter. On another matter if you would look at the suggestions from the Harrisonburg Stormwater Committee regarding setbacks. Are you all comfortable with their suggestions? They are adding that a 20-foot setback is needed 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. Staff

is prepared to follow-up with them regarding where the interpretation extends for drop-inlets. But, is Planning Commission okay with the change proposed?

There was a consensus from Planning Commission that the proposed language was appropriate.

Chair Fitzgerald asked if there is anything else to discuss.

Mr. Fletcher said we will put this together and do our best to get it all back to you next month. Speaking of next month, we have another small agenda, we have two items that staff is actually bringing to you. We are bringing two Zoning Ordinance amendments, one is associated with the Board of Zoning Appeals procedures and the other is associated with clarifying some regulations against some manufacturing and processing in an outdoor environment associated with landscaping materials.

Chair Fitzgerald said before you are the 2015 Annual Reports. Planning Commission needs to review each; however, only the Planning Commission Annual Report will be forwarded to City Council.

Mr. Da'Mes pointed out a spelling error on page #3 of the Planning Commission Annual Report.

Mr. Heatwole moved to forward the 2015 Planning Commission Annual Report forward to City Council with the correction to page #3.

All voted in favor (5-0).

Chair Fitzgerald informed the remaining public that the conversation on chickens would, in all likelihood, be taken up again next month at the regular Planning Commission meeting. She then asked Mr. Baugh if he had something he wanted to add from earlier comments within the report from City Council.

Mr. Baugh said we [City Council] got talking about some of the upcoming Comprehensive Plan process and there were some questions about what was anticipated with that. Of course Mr. Fletcher was not present to respond; but, a concept was brought up. It is something that I think this group should know about. If there had been a vote at the last City Council session regarding "how to instruct Planning Commission to look at doing the next iteration of the Comprehensive Plan," those instructions, by a 3 to 2 vote would have been "pare it back." Why are we putting stuff in the Comprehensive Plan that we do not have to be putting in there? We want to know what our minimum legal requirements are and maybe we should just be doing a Comprehensive Plan that is covering the minimum legal requirements and not have all the fancy other stuff.

I am guessing that it was not such a strong sentiment that somebody was actually going to make a motion and start trying to direct this body that way. I also suspect that whatever comes out of the process will not be reviewed by the Council that is sitting right now. Although it may be relevant to people's thinking in an upcoming election. Two of the people who are talking like this are the two that will still be there come January 1. I just thought I would share that with everybody.

Chair Fitzgerald said that would remove the Comprehensive Plan from being an aspirational document, an actual "plan," backward to what is the minimum we have to do and how can we plan to do the minimum. Do we not want to be better than the minimum?

Mr. Baugh said this is entirely FYI at this point. I am just saying this is where the conversation kind of moved off to when the question arose about the Comprehensive Plan. There is a very

direct mandate to have a Comprehensive Plan and a handful of things that it has to do; how you do that is up to you. There is not a lot of structure that is imposed on Planning Commission for reviewing this.

Chair Fitzgerald asked where does the planning for the community as a whole happen if it is not to happen in the Comprehensive Plan.

Mr. Baugh said I do not believe anyone has thought that far ahead and it is essentially the less the plan gives us as far as specific guidance, the default is it up to the wisdom of the five elected officials. It was not that long ago that was how things were handled, which is why you have had some changes in orientation with that.

Chair Fitzgerald said you always have to re-win some of those victories and this may be one of those re-win times we need to fight all over again.

Mr. Baugh said can you see the aspect that you are an elected official, you are in the minority, and someone is yelling at you for not having done something that you were not real certain should be a priority. So you question why are we putting these things in the plan to give people these talking points go come after us.

Chair Fitzgerald said is the big picture the fact that Council is being held accountable to goals that are in the Comprehensive Plan and now the reaction is maybe to get rid of the goals.

Mr. Baugh said remember, no formal action has been taken on that. We are very clear that as it sits right now, the mandate is to come up with the next iteration of the Comprehensive Plan.

Chair Fitzgerald said thank you, it is very useful information.

Mr. Da'Mes said when do we think that process will begin.

Mr. Fletcher said probably what this body needs to do is in May make some kind of formal declaration that, yes or no, we want to update the plan. Assuming the answer is yes, then you have done your obligation and we start the process of updating. There are some behind the scenes issues of whether we are going to do the update in-house or are we going to use a consultant. Where does it begin when you want the input and when you want to have something to get input on? We have an existing plan and we have all these strategies and goals. Perhaps some of that is where all this is coming from, some people take the strategies as "that is what you should be doing," when a strategy is just a recommended way to get to the objectives, and then to the goals. There may be strategies out there that are not listed and are excellent strategies.

Mr. Baugh said that is exactly something that comes up. The list of strategies and goals are not carved in stone, it is not meant to be exclusive, it is not meant to judge, it is all part of a framework to facilitate discussion as you move forward.

Chair Fitzgerald asked if it was time for a major overhaul of the plan.

Mr. Fletcher said I do not know if we are there. I do think structurally what we have is a very good structure. The question could be at what point have we surpassed the legal minimum that is required for the plan.

Mr. Heatwole said our civic responsibility is to give it due diligence.

Mr. Baugh said the aspect of public input was really the foundation of the 2004 Comprehensive Plan. It shifted the orientation to the public and to make sure we incorporated what they were

saying. 2011 was a deliberate effort to get the sense of the community on the update. So if anything we do not want to go backward from that direction.

Adjournment

Hearing nothing further, the Planning Commission meeting was adjourned at 9:50 p.m.

DRAFT



City of Harrisonburg, Virginia

Department of Planning & Community Development
409 South Main Street
Harrisonburg, Virginia 22801
www.harrisonburgva.gov/community-development

Building Inspections: (540) 432-7700
Engineering: (540) 432-7700

Planning and Zoning: (540) 432-7700
Department Fax: (540) 432-7777

To: Planning Commission
From: Department of Planning and Community Development
Date: March 3, 2016
Re: Zoning Ordinance Amendment, Section 10-3-24, Section 10-3-90 (17), and Section 10-3-96 (16)

Summary:

Public hearing to consider amending the Zoning Ordinance Sections 10-3-24, 10-3-90, & 10-3-96 all of which are related to the currently defined and listed uses of “plant nurseries and greenhouses.”

Background:

Staff is proposing to amend Section 10-3-24 by modifying the definition of “Plant nurseries and greenhouses” by adding “landscaping businesses and similar operations” to the titled definition. Section 10-3-90, which is the Uses Permitted By Right section of the B-2 General Business District, would be modified within subsection (17) by aligning the existing specified uses (plant nurseries and greenhouses) with the modified definition noted above by adding “landscaping businesses and similar operations” to the list of permissible uses. Similarly, Section 10-3-96, which is the Uses Permitted By Right section of the M-1 General Industrial District, would be amended within (16) also by aligning the existing specified uses (plant nurseries and greenhouses) with the modified definition noted above by adding “landscaping businesses and similar operations” to the list of permissible uses. Staff is further proposing for the identified uses within the M-1 district the ability to have small-scale, outdoor manufacturing, processing, storage, and treatment of products as part of a plant nursery, greenhouse, landscaping business, or similar operation, when such uses are compatible with surrounding uses.

The proposed amendments originated after a citizen proposed a landscaping-like business within the M-1 district that would have included outdoor processing and manufacturing—in this particular case, the individual was interested in processing and manufacturing mulch. Although the landscaping-type business was permitted by right, staff knew the M-1 zoning district under the current Zoning Ordinance would not permit outdoor processing and manufacturing because Section 10-3-99 (c), among other things, states that “unless otherwise permitted, all accessory storage or products to be processed or being processed, and supplies and waste materials resulting from such work, shall be completely enclosed within the structures of permanent and durable construction” (emphasis added). Given the desired location of the operation and the exact type of outdoor manufacturing that was desired, staff believed the ordinance was overly burdensome.

Overall, staff believes the proposed amendments are good planning and zoning practices. Specifically, the language within Section 10-3-96 (16), which states that the uses must be “compatible with surrounding uses” is important to understand because this will provide a level of scrutiny for the Zoning Administrator to ensure that such uses do not cause undesirable dust and debris, noise, lighting, or other issues for adjacent properties. For example, at this time staff does not believe it would be appropriate to have a

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landscaping operation that includes outdoor processing and manufacturing adjacent to a residential zoning classification or on M-1 properties that are located within or adjacent to the City's downtown area. If the Zoning Administrator interprets a particular small scale, outdoor manufacturing, processing, storage, or treatment of products operation that is associated with a landscaping-like business as not being compatible with surrounding uses and the property owner believes the interpretation is wrong, they may appeal the decision to the Board of Zoning Appeals.

Key Issues:

The proposed amendment for Section 10-3-24 Definitions is shown below:

Plant nurseries, and greenhouses, landscaping businesses, and similar operations: A facility where plants and landscaping materials are raised and/or sold. Such uses must be served by a permanent building. ~~A plant nursery~~ These uses may include the storage of materials used for installation of landscaping materials.

The proposed amendment for Section 10-3-90 Uses permitted by right of the B-2, General Business District occurs within subsection (17) and is shown below:

(17) Plant nurseries, and greenhouses, landscaping businesses, and similar operations provided any outside storage of material, other than plants, must be screened.

The proposed amendment for Section 10-3-96 (16) Uses permitted by right of the M-1, General Industrial District occurs within subsection (16) and is shown below:

(16) Plant nurseries, and greenhouses, landscaping businesses, and similar operations, which may include small-scale, outdoor manufacturing, processing, storage, and treatment of products that are compatible with surrounding uses.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

Do not approve the staff proposed revisions and maintain the existing regulations, which restrict all manufacturing, processing, storage, and treatment of products associated with plant nurseries and greenhouses to indoor operations.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission's public hearing for the modifications. The advertisement was published as shown below:

"Public hearing to consider amending the Zoning Ordinance Sections 10-3-24, 10-3-90, & 10-3-96 all of which are related to the currently defined and listed uses of plant nurseries and greenhouses. Section 10-3-24 would be amended by modifying the definition of "Plant nurseries and

greenhouses” by adding “landscaping businesses and similar operations” to the titled definition. Section 10-3-90 (17) of the B-2, General Business District would be amended to align with the modified definition noted above by adding “landscaping businesses and similar operations” to the list of permissible uses. Finally, Section 10-3-96 (16) of M-1, General Industrial District would also be amended to align with the modified definition noted above by adding “landscaping businesses and similar operations” to the list of permissible uses while also noting that such uses may have small-scale, outdoor manufacturing, processing, storage, and treatment of products as part of the operations.”

Recommendation:

Staff recommends approving the proposed Zoning Ordinance amendments as described and shown herein.

Attachments:

Draft ordinance document reflecting the proposed changes.

Review:

N/A

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-24
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-24 Definitions is amended as shown:

Plant nurseries, and greenhouses, landscaping businesses, and similar operations: A facility where plants and landscaping materials are raised and/or sold. Such uses must be served by a permanent building. ~~A plant nursery~~ These uses may include the storage of materials used for installation of landscaping materials.

The remainder of Section 10-3-24 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2016. Adopted and approved this ____ day of _____, 2016.

MAYOR

ATTESTE:

CITY CLERK

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-90
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-90 Uses permitted by right of the B-2, General Business District is amended by modifying subsection (17) as shown:

- (17) Plant nurseries, ~~and~~ greenhouses, landscaping businesses, and similar operations provided any outside storage of material, other than plants, must be screened.

The remainder of Section 10-3-90 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2016. Adopted and approved this ____ day of _____, 2016.

MAYOR

ATTESTE:

CITY CLERK

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-96
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-96 Uses permitted by right of the M-1, General Industrial District is amended by modifying subsection (16) as shown:

- (16) Plant nurseries, ~~and~~ greenhouses, landscaping businesses, and similar operations, which may include small-scale, outdoor manufacturing, processing, storage, and treatment of products that are compatible with surrounding uses.

The remainder of Section 10-3-96 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2016.
Adopted and approved this ____ day of _____, 2016.

MAYOR

ATTESTE:

CITY CLERK



City of Harrisonburg, Virginia

Department of Planning & Community Development
409 South Main Street
Harrisonburg, Virginia 22801
www.harrisonburgva.gov/community-development

Building Inspections: (540) 432-7700
Engineering: (540) 432-7700

Planning and Zoning: (540) 432-7700
Department Fax: (540) 432-7777

To: Planning Commission
From: Department of Planning and Community Development
Date: March 3, 2016
Re: Zoning Ordinance Amendment, Section 10-3-24 and Several Sections within Article W

Summary:

Public hearing to consider a request to amend the Zoning Ordinance Section 10-3-24 Definitions and several sections within Article W Board of Zoning Appeals (BZA) to align the City Code with approved changes to the Code of Virginia that occurred during the 2015 Virginia Acts of Assembly and in general to perform a few housekeeping revisions to line up our Code better with the State Code.

Background:

Overall, the changes herein described pertain to the procedures and criteria under which the board grants variances and decides appeals. The amendments would occur within Section 10-3-24 Definitions and the following code sections within Article W Board of Zoning Appeals: 10-3-132 and 10-3-135 through 10-3-140.

In general, the BZA is charged with: hearing and deciding appeals to decisions of the Zoning Administrator, authorizing variances that allow deviations from particular zoning regulations, hearing and deciding applications for interpretations of the zoning map, and to determine (in cases of uncertainty) the district classification of any use not specifically named in the Zoning Ordinance.

The existing definition of “variance” within Section 10-3-24 is proposed to be updated by removing the requirement of a property owner proving that strict application of the ordinance results in “unnecessary or unreasonable hardship” and replacing it with the requirement that an applicant demonstrate that strict application of an ordinance would “unreasonably restrict the utilization of the property.” Changes made to Section 10-3-132 titled Composition, would be amended to better define the duties of the secretary of the BZA and the BZA members. New criteria to decide appeals would be added to Section 10-3-135 titled Powers, while Section 10-3-136 titled Variances would be updated to reflect the new definition of a “variance” and outline the criteria under which one can be granted. Section 10-3-137 titled Conditions Attached to Approvals, has been removed altogether since the power to impose conditions is given at the end of Section 10-3-136. Section 10-3-138 titled Amendment of Variance, would be changed to require applicants to follow the same process as individuals applying for a variance. Three new subsections have been added to Section 10-3-139 titled Procedures on Applications and Appeals, to include the requirements of equal say during a public hearing, availability of materials to the applicants and the public, and for issues associated with open communication among all parties involved while a case is open.

The purpose of most of these changes is to clarify the criteria under which the board can grant a variance. In the past, deciding whether or not an applicant met the requirement of a “hardship” has been difficult. With this amendment, the hope is that the BZA will find it easier to determine if a property’s utilization is being unreasonably restricted by regulations within the Zoning Ordinance. Other important changes that are proposed within Article W are to further ensure that applicants are being treated fairly and have equal access to all of the materials and conversations surrounding their case. As noted in the Summary section above, several of the proposed amendments are not associated with recent changes to the Code of Virginia, but rather are put forth to better align the overall regulations of the BZA with the Code of Virginia.

Key Issues:

N/A

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

Do not approve the staff proposed revisions and to remember that the City Code is outdated and to rely on referring to the Code of Virginia for up-to-date legislation related to functions of the BZA.

Community Engagement:

As required, the proposed amendments were published in the local newspaper twice advertising for Planning Commission’s public hearing for the modifications. The advertisement was published as shown below:

“Public hearing to consider amending the Zoning Ordinance Sections 10-3-24, 132, and 135 through 140. Section 10-3-24 Definitions shall be amended by updating the definition of “variance” to align with changes to the Code of Virginia. Section 10-3-132 shall be amended by adding language to better describe the structure of the Board of Zoning Appeals. Section 10-3-135 shall be amended by adding review criteria to assist the Board of Zoning Appeals in hearing and deciding appeals. The criteria includes adding that the determination of the administrative officer shall be presumed to be correct and that the officer must explain the basis for their determination and further that the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. Section 10-3-136 shall be amended by updating four of the five existing subsections to align with the provisions of the Code of Virginia, which among other things, adds to the criteria to consider when reviewing variance requests as well as by adding a new subsection explaining that the applicant has the burden proving that they meet the standards for receiving a variance. Section 10-3-137 titled Conditions Attached to Approvals shall be removed in its entirety and thus necessitating the renumbering of Sections 10-3-138, 139, and 140 accordingly. Existing Section 10-3-138 title Amendment of Variance shall be amended by aligning it with the application procedures as specified within existing Section 10-3-139. Existing Section 10-3-139 shall be amended by adding three new subsections including information regarding equal say during hearings, ex parte communications, and when materials of the case shall be available to board members, the applicant, and the public.”

Recommendation:

Staff recommends approving the proposed Zoning Ordinance amendments as described and shown herein.

Attachments:

Draft ordinance document reflecting the proposed changes.

Review:

N/A

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-24
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

**That Section 10-3-24 Definitions is amended by modifying the definition of
“Variance” as shown:**

Variance: A reasonable deviation from those provisions regulating the shape, size or area of a lot or parcel of land, or the size, height, area, bulk or location of a building or structure when the strict application of the ordinance would ~~result in unnecessary or unreasonable hardship to the property owner, unreasonably restrict the utilization of the property,~~ and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the ~~intended spirit and~~ purpose of the ordinance, ~~and would result in substantial justice being done.~~ It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

The remainder of Section 10-3-24 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2016.
Adopted and approved this ____ day of _____, 2016.

MAYOR
ATTESTE:

CITY CLERK

ORDINANCE AMENDING AND RE-ENACTING
TITLE 10 CHAPTER 3 ARTICLE W
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Article W. Board of Zoning Appeals is amended as shown:

Sec. 10-3-132. - Composition.

There shall be a board of zoning appeals (hereinafter called the "board") which shall consist of five (5) members, each to be a resident of the city and each to be appointed by the circuit court of the city for terms of five (5) years, except the original appointments shall be made for such terms that the term of one member shall expire each year. ~~When approved by the court, one member shall be a member of the city planning commission. Vacancies shall be filled by such court for the unexpired portion of the term.~~ The secretary of the board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality except that one member shall be a member of the city planning commission. A member whose term expires shall continue to serve until their successor is appointed and qualifies. A member may be removed by such court for cause, upon written charges and after a public hearing. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed them, after a hearing held after at least fifteen days' notice. Each member shall receive such compensation as the city council may authorize for attendance at each regular or called meeting of the board.

Sec. 10-3-133. - Organization.

The board shall elect one of its members as chairman and one of its members as vice chairman. The chairman shall preside at all meetings of the board and in the chairman's absence the vice-chairman shall preside. The city manager, or designated agent, shall appoint a recording secretary whose duty it shall be to keep the minutes and other records of the actions and deliberations of the board and perform such other ministerial duties as the board shall direct. The recording secretary shall receive such compensation as the city council may authorize for attendance at each regular or called meeting of the board.

Sec. 10-3-134. - Procedure.

The board shall adopt such rules of procedure as it may deem necessary in order to carry into effect the provisions of this chapter, said rules to be in writing and copies available to the public at the office of the zoning administrator and the recording secretary of the board. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in the chairman's absence the vice-chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The recording secretary shall keep minutes of the board's proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of the board's examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. A quorum shall consist of three (3) board members, one which shall be either the chairman or the vice-chairman. The board shall submit a report of its activities to the city council at least once each year.

Sec. 10-3-135. - Powers.

The board of zoning appeals shall have the following powers and duties:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of this chapter where:
 - a. The determination of the administrative officer shall be presumed to be correct and shall explain the basis for their determination.
 - b. The appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.
 - c. The board shall consider any applicable ordinances, laws and regulations in making its decision.
- (2) ~~To authorize upon appeal in specific cases such~~ grant a variance from the terms of this chapter if the evidence shows that the strict application of this chapter would unreasonably restrict the utilization of the property and as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship; provided, that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done as hereinafter provided.
- (3) To hear and decide applications for interpretation of the zoning district map where there is any uncertainty as to the location of a district boundary. The board shall not have the power to change substantially the locations of the district boundaries as established by ordinance.
- (4) To determine, in cases of uncertainty, of the district classification of any use not specifically named in these regulations; provided, however, such use shall be in keeping with uses specifically permitted in the district in which such use is to be classified.

Sec. 10-3-136. - Variances.

Subject to the provisions of this article, the board shall have the power to grant the following variances:

- (1) A variance in the yard and lot area requirements in any district as to relieve practical difficulties or particular hardships in cases ~~when a property owner can show that his property was acquired in good faith and~~ where by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or the use or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the ~~use~~ utilization of the property, ~~or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrated hardship as distinguished from a special privilege or convenience sought by the applicant; provided, that all variances shall be in harmony with the intended spirit and purpose of this chapter.~~
- (2) No variance shall be ~~authorized~~ granted by the board unless it finds that:
 - a. ~~That the~~ The strict application of this chapter would ~~produce undue hardship~~ unreasonably restrict the utilization of the property.
 - b. ~~That such~~ Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - c. ~~That the~~ The authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 - d. The property for which the variance is being requested was acquired in good faith.
 - e. Any hardship was not created by the applicant for the variance.
 - f. The relief or remedy sought by the variance application is not available through any other process available in this chapter such as modifications to this chapter or through approval of a special use permit.
- (3) No such variance shall be ~~authorized~~ considered except after notice and hearing as required by ~~§ 15.1-431~~ §15.2-2204 of the Code of Virginia, ~~1950, as amended.~~ Such notice may be given by first-class mail rather than by registered mail.
- (4) No variance shall be ~~authorized~~ granted unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a in nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.
- (5) In ~~authorizing~~ granting a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

Sec. 10-3-137. -- Conditions attached to approvals.

~~Where the board is authorized to decide appeals, and where the board is authorized to approve variances, such approval, decision or authorization shall be limited by such conditions as the case may require, including the imposition of any of the following specifications:~~

- ~~(1) Amount, direction and location of outdoor lighting.~~
- ~~(2) Amount of location of off street parking and loading space.~~
- ~~(3) Connected or disconnected with other buildings.~~
- ~~(4) Exits or entrances, doors and windows.~~
- ~~(5) Paving, shrubbery, landscaping, ornamental or screening fences, walls or hedges, or security fences.~~
- ~~(6) Time of day or night for operating.~~
- ~~(7) No store fronts.~~
- ~~(8) Control or elimination of smoke, dust, gas, noise, vibration caused by operations.~~
- ~~(9) Requirements for termination of a use based on lapse of time or such other conditions as the board may specify.~~
- ~~(10) ——— Such other conditions as are necessary as prescribed by law.~~

Sec. 10-3-13837. - Amendment of variance.

Amendment of a variance shall follow the same procedures and meet the same criteria as is specified for applications for variances as described in Section 10-3-138. ~~The procedure for amendment of a variance already approved, or the request for a change of conditions attached to an approval, shall be the same as for the new application, except that, where the administrator determines the change to be minor relative to the original approval, he may transmit the same to the board with the original record without requiring that a new application be filed.~~

Sec. 10-3-13938. - Procedure on applications and appeals.

- (a) Application for variances. An application to the board for a variance in which the board has original jurisdiction under this chapter may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the recording secretary of the board on forms which shall be provided for the purpose in accordance with rules which shall be adopted by the board. All information including maps and plans required by such forms, or otherwise required by the board in order that it might be fully informed, shall be furnished by the applicant. The recording secretary of the board shall place the matter on the agenda. Every application or appeal shall be advertised for a public hearing and said notice shall appear at least once a week for two (2) successive weeks in a newspaper having general circulation in the city. Such notice shall specify the time and place of hearing, not less than six (6) days nor more than twenty-one (21) days after the second advertisement and the property shall be posted in accordance with the rules of the board.
- (b) Appeals. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the administrator, or from any order, requirement, decision or determination made by any other administrative

officer in the administration or enforcement of this chapter. Such appeal shall be taken within ten (10) days for a notice of violation involving temporary or seasonal commercial uses, maximum occupancy limitation of a residential dwelling unit, keeping of inoperable vehicles and junk, or similar short term, recurring violations, or within thirty (30) days after the entry of any other decision appealed from by filing with the administrator, and with the board, a notice of appeal specifying the grounds thereof. The administrator shall forthwith transmit to the recording secretary of the board all the papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in the furtherance of the action appealed from unless the administrator certifies to the board, after the notice of appeal shall have been filed with ~~him~~ them, that by reason of facts stated in the certificate of stay would, in ~~his~~ their opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record, on application and on notice to the administrator and on due cause shown.

In any case where the administrator has certified conformity with the provisions of this chapter and a building permit has been issued and construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, suit may be filed within fifteen (15) days after the start of construction by a person who had no actual notice of the issuance of such permit. The court may hear and determine issues raised in the litigation even though no appeal was taken from the decision of the administrator to the board of zoning appeals.

(c) Filing fees:

- (1) All persons, firms or corporations appealing to the board of zoning appeals shall be required to pay, at the time the application is submitted, two hundred seventy-five dollars (\$275.00) per request for expenses relative thereto.
- (2) All persons, firms or corporations applying for variances under the provisions of this chapter or applying for an amendment of a variance already approved shall be required to pay, at the time the application is submitted, two hundred seventy-five dollars (\$275.00) per request for expenses relative thereto.
- (3) The payment of such money in advance to the office of the administrator as specified shall be deemed a condition precedent to the consideration of such appeal, variance request or requested amendment to a variance already approved.

(d) Hearing and decision. The board shall, within thirty (30) days, fix a time and date for the hearing of the requested variance or appeal, give public notice thereof as required by law, as well as due notice to the parties in interest, and decide the same within thirty (30) days after the hearing date. Upon the hearing any party may appear in person, or by agent, or by attorney. In exercising its powers, the board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify, any order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer or to decide in favor of the applicant on any

matter upon which it is required to pass under this chapter, or to effect any variance from this chapter.

- (e) Posting of property. Notwithstanding any advertising requirements imposed by the Code of Virginia, as amended, any property proposed for review due to a variance or any other public hearing as elsewhere specified in this section shall be posted for public notice as specified below. At least fourteen (14) days prior to the board of zoning appeal's public hearing on the pending application, the city shall erect on the subject property signs indicating the variance proposed and a contact phone number for persons wanting more information regarding the public hearing/meeting. Such signs may not be removed until the board of zoning appeals has acted upon the application, and shall be removed no later than five (5) days thereafter. The city shall determine the number of signs required, placement, and type of posting; however, there shall be at least one sign posted along each public right-of-way abutting the property.
- (f) Equal say. The board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved and the administrative officer or their staff.
- (g) Ex parte communications. The applicant, landowner or their agent or attorney and the non-legal staff of the governing body may not discuss the facts or law relative to a particular case with a member of the board prior to the hearing. If any ex parte discussion of facts or law occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise them of the substance of such communication.
- (h) Availability of materials. Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to the applicant, appellant or other person aggrieved within three days of being available to the board member. Any such materials furnished to a board member shall also be made available for public inspection.

Sec. 10-3-14039. - Appeals to courts.

Appeals to courts from a decision of the board may be filed in the manner prescribed by law.

The remainder of Article W is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2016.
Adopted and approved this _____ day of _____, 2016.

MAYOR

ATTESTE:

CITY CLERK

March 2016, Proactive Zoning Report

For the month of March 2016, the proactive zoning program inspected the **Spotswood Acres** and **Jefferson** sections of the city. The violations related to inoperable vehicles, signs, indoor furniture, and junk. The proactive zoning program for April 2016, will be directed toward the **Forest Hills & JMU** and **Mosby & Kaylor** sections of the City.

MONTH	SECTOR	5 th CYCLE VIOLATIONS	CORRECTED	2 nd CYCLE	3 rd CYCLE	4 th 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	Technology Park	1	1	1	0	0
May 2015	Northeast	45	45	45	63	29
June 2015	South Main	11	11	0	1	1
July 2015	Fairway Hills	2	2	0	0	2
August 2015	Smithland	3	3	4	0	2
January 2016	North Main	38	27	4	4	10
January 2016	North Liberty	33	27	4	18	11
February 2016	Westover	42	14	8	17	13
February 2016	Garbers Church	4	1	2	1	9
March 2016	Spotswood Acres	5		4	1	8
March 2016	Jefferson	36		22	35	21
April 2016	Forest Hills & JMU			1	1	1
April 2016	Mosby & Kaylor			0	2	5
May 2016	Hillandale			5	17	11
June 2016	Maplehurst & JMU			5	2	0
July 2016	Hawkins			28	17	11
August 2016	Greystone			10	13	9
September 2016	Southeast Industrial			2	5	1
October 2016	Ramblewood & Greendale			8	1	11
November 2016	Stone Spring Village			10	0	2
December 2016	Sunset Heights			29	10	2
January 2017	Reherd Acres			12	9	10
February 2017	West Market			16	6	13
March 2017	Chicago			22	29	4
April 2017	Pleasant Hill			13	17	9
May 2017	Avalon Woods			26	11	36
June 2017	Waterman			61	18	15
July 2017	Keister			5	8	7
August 2017	City Hall			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

409 South Main Street
Harrisonburg, Virginia 22801
540-432-7700

www.harrisonburgva.gov/community-development

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, March 4, 2016

At last month's regular meeting, Planning Commission received public input and held a discussion on the specific talking points from City Council regarding possible amendments to Section 15-2-24 Fowl, Chicken and other Domestic Birds, commonly known as the "Chicken Ordinance." During the meeting Planning Commission discussed the talking points and the general regulation of backyard chickens. By the end of the meeting, Planning Commission decided the two acre requirement should be eliminated and decided to regulate whether a lot could have chickens with a setback restriction for chicken pens. The Commission decided that a neighbor's approval was not necessary, and that there was no need to limit the number of permits that could be issued within a given time period.

Under the talking point related to "any other issues not discussed in 2009," Planning Commission decided that: chicken coops or pens must be covered and enclosed; there should be some type of an educational component provided with the application process that provides bio-security information and appropriate contact information; there should be a buffer provided around all poultry processing plants, hatcheries, feed mills, truck lots and poultry farms; and, to provide the suggested setback of 20-feet from all streams, tributaries, ditches, swales, stormwater management facilities, drop in-lets or other storm drainage areas as offered by the Stormwater Advisory Committee.

As requested by the Commission, maps showing two setback options for pens—at five feet and ten-feet) have been provided, and language has been added to the ordinance to better define what a pen is and where it can be located. Within the packet are different lot size scenarios to give an idea of the area where pens could be located with the two setbacks.

After questions arose at last month's meeting regarding the disposal of animal carcasses, staff contacted Dr. Hopson to get his input. Disposal by landfill or composting on site would be the most practical and acceptable means for disposing backyard chickens of routine mortalities. The County Landfill does accept carcasses; however, an appointment is necessary and there is a fee. For birds that may be infected with High Pathogenic Avian Influenza (HPAI), they will require disposal on-site. At this time, staff continues to research information on this matter as it may

require a 50-foot setback from all property lines. We will have more information available at the meeting Wednesday evening.

Planning Commission also asked staff to prepare a map showing an adjacent lot buffer around all poultry processing plants, hatcheries, feed mills, and poultry farms. This map is included within the packet, along with the 1,000-foot buffer map provided last month.

Furthermore, staff has received brochures from the USDA regarding backyard flocks and bio-security practices to keep your flock healthy. Rather than providing all of the different information and different options for brochures that the USDA has available, you may view the different options at the following link:

https://www.aphis.usda.gov/publications/aphis_pubs.php?ndx=2&fltr=Bird%20Biosecurity.

Lastly, a copy of the existing application for individuals who wish to keep chickens in the City titled "Application To Keep Chickens On Residential Property," is included within your packet.

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

ORDINANCE AMENDING AND RE-ENACTING SECTION

15-2-24

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 15-2-24 Fowl, chickens and other domestic birds is amended as shown:

- (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)(2) No roosters shall be allowed.
 - (4)(3) There shall be no outside slaughtering of birds.
 - (5)(4) All chicken hens must be kept at all times in an enclosed and covered, secure, movable or stationary pen that contains at a minimum four (4) square feet per bird.

~~(6)~~(5) 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. Pens shall be located in the rear yard and shall be situated at least 7 feet from all property lines. In addition, all pens shall be located at least twenty (20) feet from streams, tributaries, ditches, swales, stormwater management facilities, drop-inlets, or other storm drainage areas that would allow fecal matter to enter any city storm drainage system or stream.

Comment [a1]: Five (5) or ten (10) feet was recently discussed.

~~(7)~~(6) 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)~~(7) All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.

~~(9)~~(8) 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 through a bona fide poultry litter service at the county landfill in accordance with the applicable permit.

~~(9)~~ Also ~~a~~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.

Comment [a2]: Additional information should be added to this subsection to address how to discard of a bird that died due to avian influenza.

(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~~ pens 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.~~ Verification of the registration shall be submitted with the application required herein. Once the site and ~~enclosures~~ pens 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.

This ordinance shall be effective from the ____ day of _____, 2016.
Adopted and approved this ____ day of _____, 2016.

MAYOR

ATTESTE:

CITY CLERK

Poultry Facilities 1000' Buffer

City of Harrisonburg, VA
A Shared Vision for the Future

February 2016

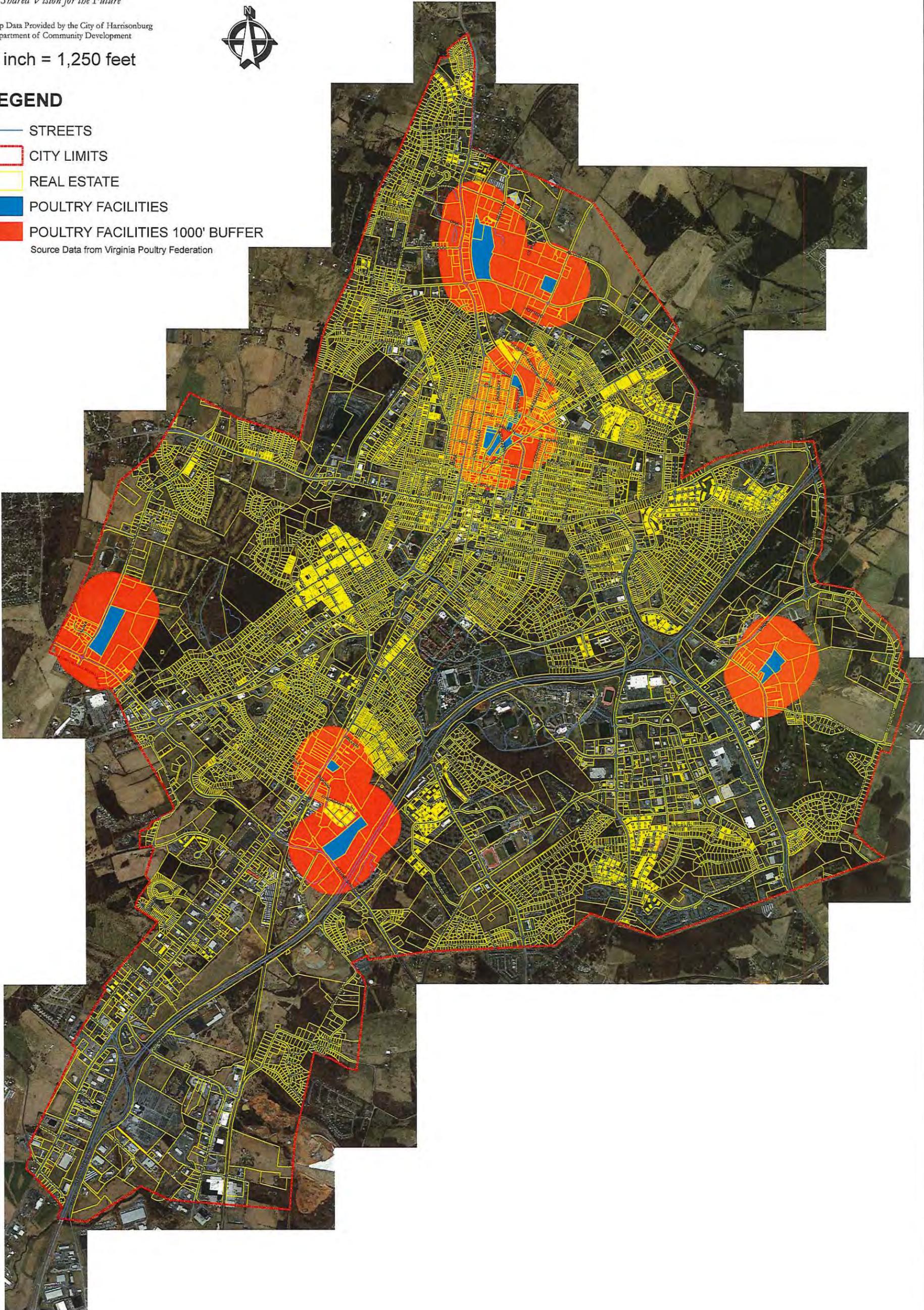
Map Data Provided by the City of Harrisonburg
Department of Community Development

1 inch = 1,250 feet



LEGEND

-  STREETS
 -  CITY LIMITS
 -  REAL ESTATE
 -  POULTRY FACILITIES
 -  POULTRY FACILITIES 1000' BUFFER
- Source Data from Virginia Poultry Federation



Properties Adjacent to Poultry Facilities

City of Harrisonburg, VA
A Shared Vision for the Future

March 2016

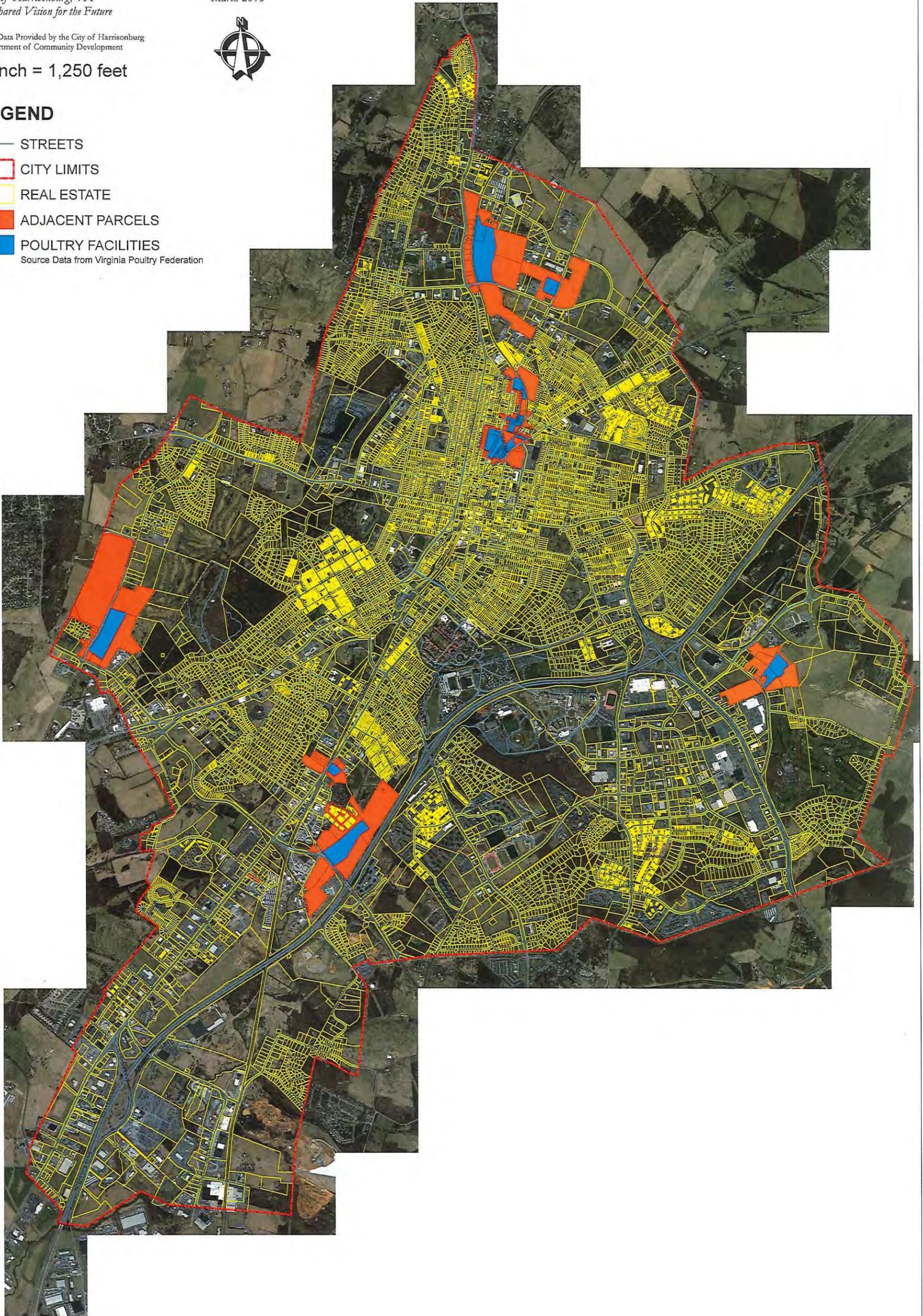
Map Data Provided by the City of Harrisonburg
Department of Community Development

1 inch = 1,250 feet



LEGEND

- STREETS
- CITY LIMITS
- REAL ESTATE
- ADJACENT PARCELS
- POULTRY FACILITIES
Source Data from Virginia Poultry Federation

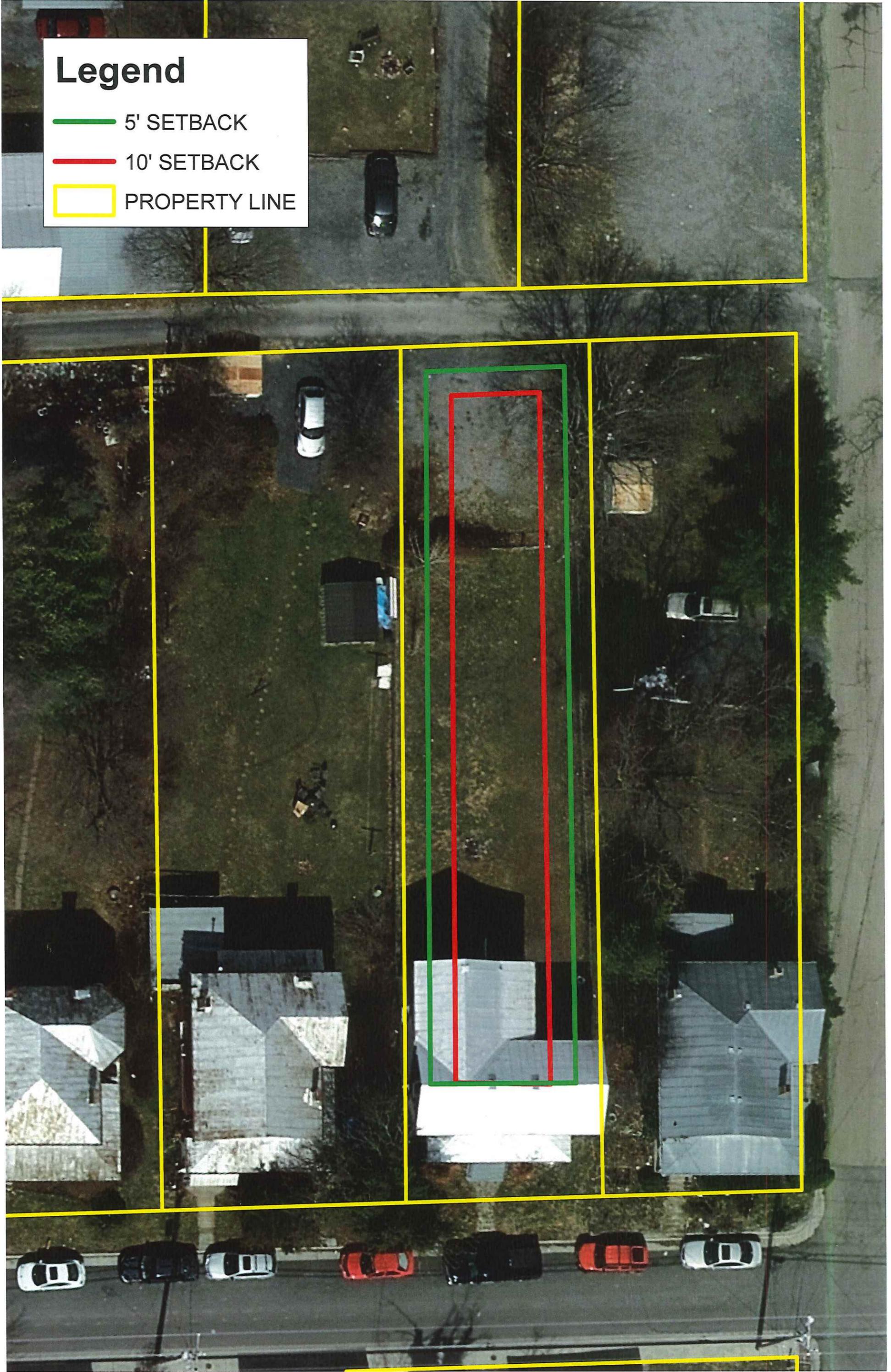


Legend

5' SETBACK

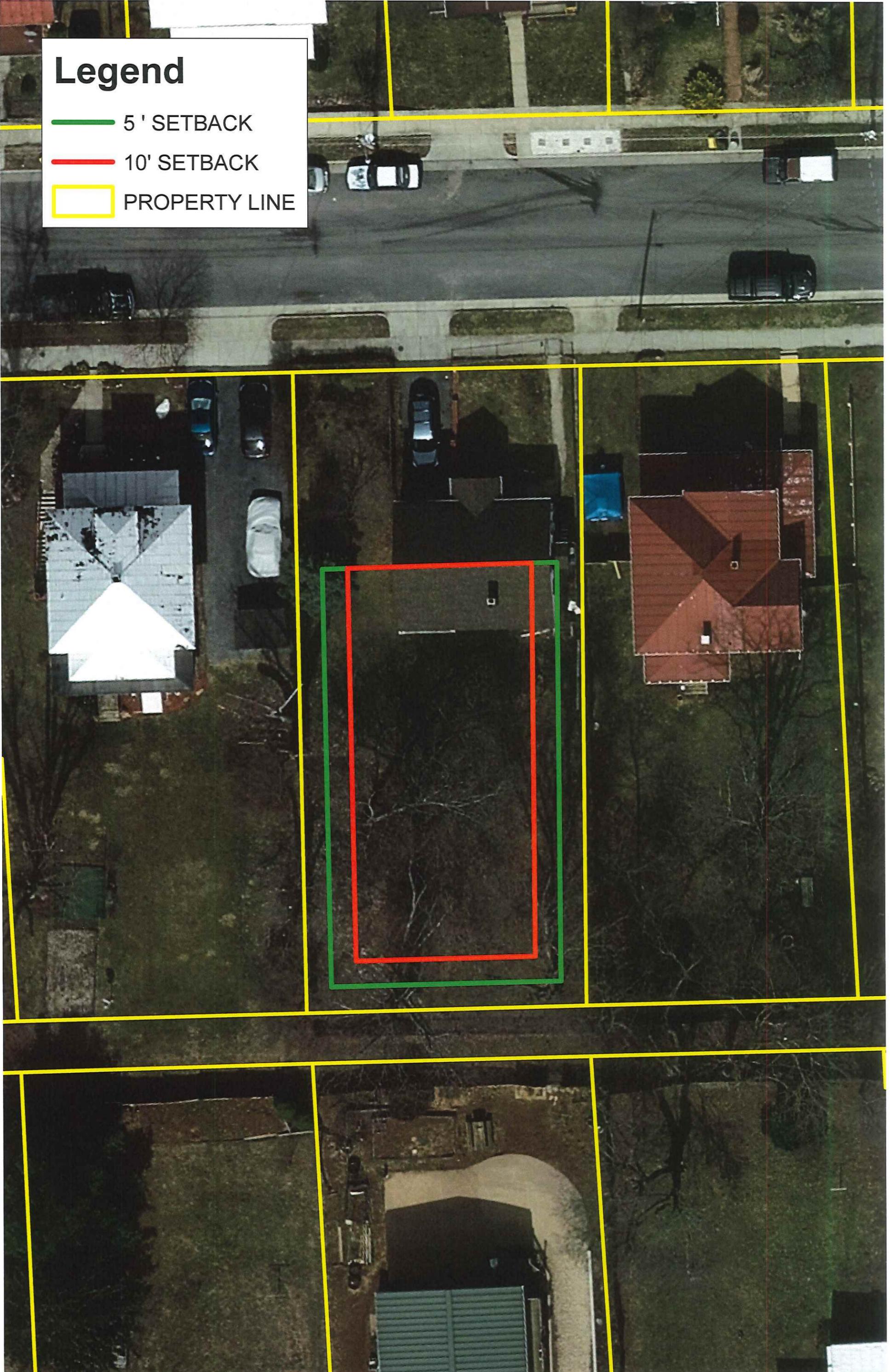
10' SETBACK

PROPERTY LINE



Legend

- 5' SETBACK
- 10' SETBACK
- PROPERTY LINE



Legend



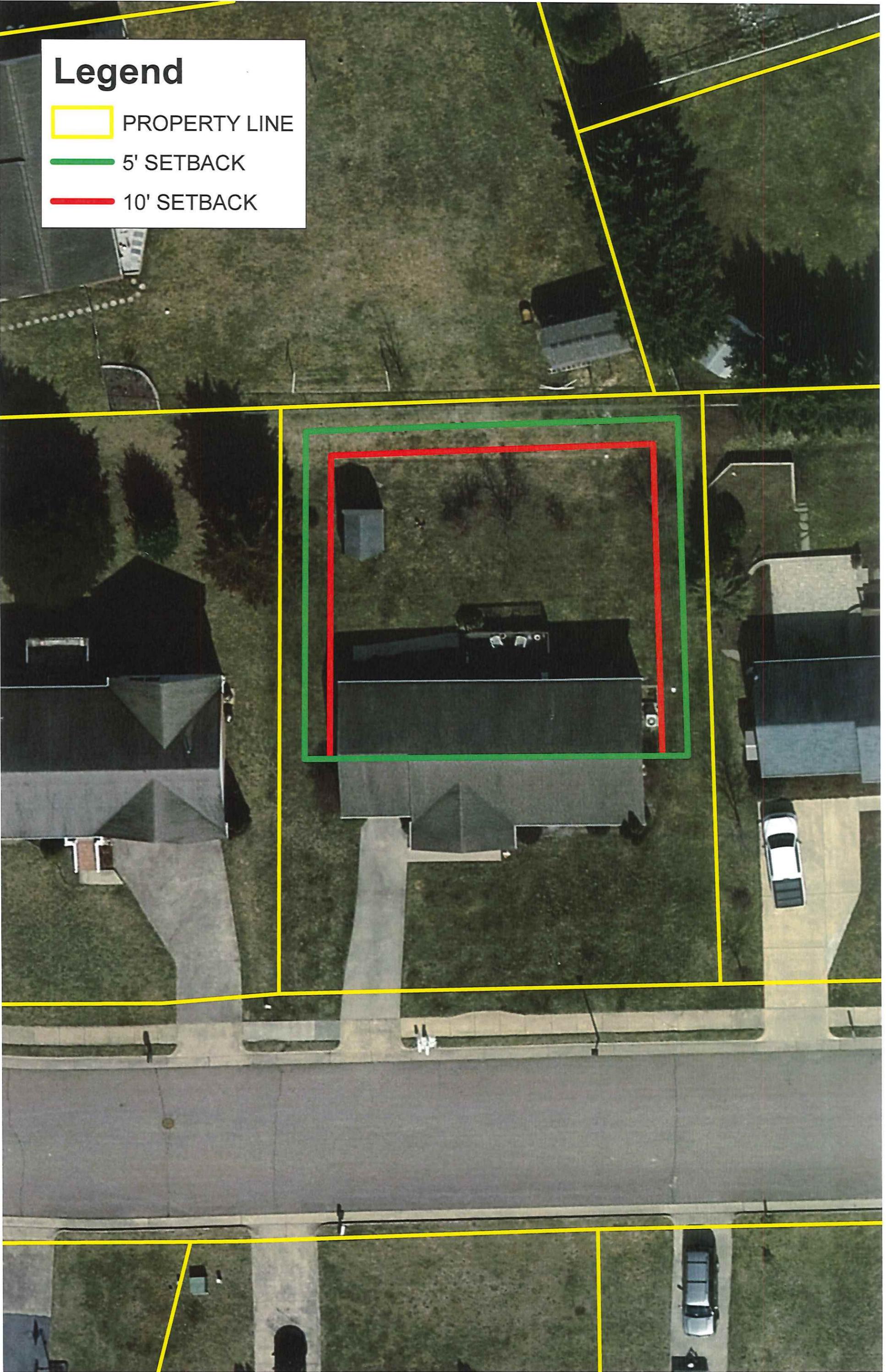
PROPERTY LINE



5' SETBACK



10' SETBACK





City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

409 South Main Street • Harrisonburg, Virginia 22801

Website: <http://www.harrisonburgva.gov>

Telephone: (540) 432-7700 Fax: (540) 432-7777

APPLICATION TO KEEP CHICKENS ON RESIDENTIAL PROPERTY

NAME: _____

ADDRESS: _____

PHONE NUMBER: _____ EMAIL: _____

PROPERTY OWNER (if different from applicant): _____

ACREAGE: _____

I hereby certify that I have received a copy of Section 15-2-24 of the Harrisonburg City Code and agree to comply with the requirements of the ordinance.

DATE: _____ APPLICANT: _____

DATE: _____ PROPERTY OWNER: _____

Signature

ZONING DISTRICT: _____ TAX MAP: _____

ZONING REPRESENTATIVE: _____ DATE: _____

- Site plan showing location of enclosure and setbacks from property lines
- Virginia Livestock Premises Registration
- Enclosure information and drawing
- Inspection by Animal Care and Control
- \$25.00 permit fee

PERMIT APPROVED; EXPIRATION DATE: _____

PERMIT DENIED

ANIMAL CARE & CONTROL: _____ DATE: _____