



POLICY BRIEF

Backyard Chickens in the City: Effective Policy Solutions for North Carolina Municipalities

INTRODUCTION & BACKGROUND

Cities throughout the United States increasingly support the raising of backyard chickens. North Carolina cities such as Raleigh, Charlotte, Winston-Salem, Durham, and others have already implemented successful policy changes. Some North Carolina municipalities have ordinances within their records that do not allow backyard chickens; these are often rooted in historical policies that developed during a period of urbanization in the early 1900s. Policy makers were concerned with public health, safety of chickens, and potential nuisances.ⁱ Today, these concerns can easily be mitigated through policy solutions, education, and thoughtful enforcement, which are outlined in this brief.

Chickens provide a plethora of benefits: eggs as an affordable and nutritious source of food, fertilizer for gardens, sustainability via local food production, education for young people, family pets, and a way to kill agricultural pests.

Policy solutions that alleviate public nuisance concerns by keeping the chickens safe and in good health allow individuals and families in municipalities to successfully raise chickensⁱⁱ. This brief addresses these issues in order for individuals and municipalities to benefit from the allowance of backyard chickens.

POLICY SOLUTIONS

Backyard poultry ordinances in municipalities differ relative to city size, existing ordinances, amount of rural and urban land, and the municipality's ability to enforce the ordinance. For example, Durham, NC, has specific ordinances for keeping chickens, while other cities, like Charlotte, NC, embed backyard chicken rules into preexisting general animal ordinances. Effective municipal ordinances on backyard chickens often address the following elements, described below with specific language attached in appendices.ⁱⁱⁱ Note that some of the sections are duplicative due to the interconnected nature of the concerns and the way to mitigate these concerns.

Poultry Definitions and Key Terms

Cities with backyard chicken ordinances tend to include specific language for, and definitions of, chicken-related terms as a means to universalize and specify the requirements necessary. Many of these cities include the descriptions as part of the general definitions within their animal ordinances, like Winston-Salem, NC. However, some ordinances include a separate section for poultry-orientated definitions directly preceding a backyard chicken ordinance, like Durham, NC (see Appendix 1).

Nuisance Guidelines

Perhaps the biggest concern for municipalities when considering backyard chickens is the possibility of public nuisance, so it can be useful to address this issue in a poultry ordinance. Having an all-encompassing nuisance clause at the beginning of the ordinance can immediately address and emphasize other parts of the ordinance.^{iv} Some ordinances have overarching nuisance clauses, like Charlotte, NC, while others specifically address chickens as a nuisance, like Nashville, TN (see Appendix 2).

Shelter Guidelines

An important part of maintaining backyard chickens is providing a proper shelter. An enclosed lockable shelter mitigates the concern that chickens will escape, alleviating nuisance and safety issues. To improve safety measures, municipalities often provide specific physical regulations for chicken shelters. One commonality across ordinances is that shelters must be easily accessible to clean and repair. Other ordinances include specifics on cleaning the shelters, storing food, disposing dead chickens, and dealing with chicken waste/manure to ensure the shelters remain sanitary (see Appendix 3). To further relieve noise and odor concerns for surrounding properties, ordinances sometimes include specific distances between a shelter, property lines, and the owner's residence. Note that guidelines for the distance and placement of the shelter should consider issues of equity for people with smaller properties (see Appendix 3).^v

Animal Safety and Humane Treatment Guidelines

Regulations within shelter guidelines can protect chickens' safety, however disease and sickness may still occur.^{vi} For this reason, clauses may contain regulations that require owners to regularly check their chickens' health status. Furthermore, some ordinances address chicken fighting and other aspects of inhumane chicken treatment to ensure that owners do not abuse their birds. An example of these guidelines is currently in effect in Nashville, TN (see Appendix 4). Ordinances that ensure humane treatment are useful to alleviate potential concerns of owners cruelly handling their chickens.

Number of Hens and Roosters

An important issue to address is the number of chickens permitted per residence. Some ordinances have a specific number or range of hens (female chickens) allowed per residence, like Winston-Salem, NC (see Appendix 5). A reasonable number of hens to permit is between four and six per residence in order to minimize noise, allow for enough egg production to feed a family, and prevent chickens from becoming lonely, since chickens are social animals.^{vii} Furthermore, some ordinances require permits to allow more hens based on property size. This can be useful for cities that have a large division between the lot sizes of urban and rural areas and enables people who have larger properties to keep more chickens. An example of this can be seen in Charlotte, NC, where a maximum of 25 hens are allowed depending on acreage. In Everett, WA, up to six hens are allowed without a permit, however additional hens require a permit (see Appendix 5).

Additionally, backyard chicken ordinances often specifically address roosters. Roosters insight more noise and aggression concerns and do not lay eggs; therefore many municipalities, like Durham, do not allow them. Other municipalities allow roosters under regulations to improve chicken happiness and fertilize eggs to produce more chickens.^{viii} Albuquerque, NM, is a city that allows one rooster per residence (see Appendix 6).

Slaughtering of Chickens

Cities face possible backlash when their ordinance allows chickens to be slaughtered. Some municipalities do not allow the slaughtering of chickens on an owner's property, like Nashville, TN, because it can create a nuisance, sanitation problems, and be considered animal cruelty if done incorrectly (see Appendix 7). Other municipalities allow the slaughtering of chickens for educational purposes, meat, and opening up space for new chickens when the chickens are no longer producing eggs. If cities want to permit chicken slaughtering, they can choose to enforce more relaxed or stringent regulations. For example, Rogers, AK has strict regulations in regard to chicken slaughtering, and only allows the owner to slaughter them inside the home, out of public sight. On the other hand, Albuquerque, NM has a more open slaughtering regulation (see Appendix 7).^{ix}

Permits, Fees, and Enforcement

One way municipalities help regulate and enforce backyard chicken ordinances is by issuing permits to keep track of chicken owners and their compliance records. However, a permitting program can be expensive for taxpayers and chicken owners alike. If the process to apply for and receive a permit is too complicated, residents may prefer to illegally own chickens. Certain cities, like Atlanta, GA, do not utilize a permitting process (see Appendix 10). Others do employ a permitting system; there are different types of processes for applying and receiving a permit that different municipalities employ. A strictly scheduled process, like Nashville, TN uses, requires the owner to renew their permit every year, while one-time permits, like Durham, NC has, can be revoked if owners refuse to comply with the ordinance in effect. The enforcement of the permit system in Durham, NC is largely based on a complaint system for cost efficiency. This complaint-driven method is one solution for dealing with incompliant backyard chicken keeping. When an ordinance is not followed, neighbors can complain and report chicken owners to the city, and it becomes the responsibility of the municipality to regulate and enforce the ordinance.

The ordinance violations may result in monetary fines, probation periods, chicken impoundment, and/or possible revocation of the chicken owner's permit subject to the severity of each case. An example of revocation is outlined in Everett, WA's municipal code (See Appendices 8 and 9).

RESOURCES

- Bailey, Tanya and Jean Larson. "Backyard Poultry: Implications for Public Health and Safety (Rep.)." Minneapolis, Minnesota: University of Minnesota: Food Policy Research Center, 2013.
- Cass Clay Food Systems Initiative. "Urban Agriculture and Backyard Chickens (Rep.)." Minneapolis, Minnesota, 2016.
- Hirsch, Veronica. "Detailed Discussions of Legal Protections of the Domestic Chicken in the United States and Europe." *East Lansing, Michigan: Michigan State University College of Law*, 2003. <https://www.animallaw.info/article/detailed-discussion-legal-protections-domestic-chicken-united-states-and-europe>.
- LaBadie, K. T. "Residential Urban Chicken Keeping: An Examination of 25 Cities (CRP 580, Rep.)." Albuquerque, New Mexico: University of New Mexico, 2008.
- National Chicken Council. "U.S. Chicken Industry History." Last modified 2012. <http://www.nationalchickencouncil.org/about-the-industry/history/>.
- "The Many Benefits of Backyard Chickens." Green America. Last modified 2017. <https://www.greenamerica.org/green-living/many-benefits-backyard-chickens>.

APPENDICES

Appendix Table of Contents

Appendix 1: Poultry Definitions and Key Terms

Appendix 2: Nuisance Clause Examples

Appendix 3: Proper Shelter Clause Examples

Appendix 4: Animal Safety and Humane Treatment Clause Examples

Appendix 5: Number of Hens Clause Example

Appendix 6: Rooster Clause Example

Appendix 7: Slaughtering Clause Examples

Appendix 8: Permits, Fees, and Enforcement

Appendix 9: Chickens at Large

Appendix 10: Non-permit Based Ordinance

Bibliography for Appendices

Appendix 1-Poultry Definitions and Key Terms

Winston-Salem, NC

At large: An animal is deemed to be at large when it is off its owner's property and not under the restraint of a competent person.

Public nuisance: An animal or group of animals may be considered to be a public nuisance if, by way of example and not of limitation, it:

- (1) Damages, soils, or defiles community or neighborhood private property or public property;
- (2) Interferes with the ordinary use and enjoyment of a person's property;
- (3) Turns over garbage containers or damages flower or vegetable gardens;
- (4) Causes unsanitary or offensive conditions; or
- (5) Impedes the safety of pedestrians, bicyclists, or motorists."-Winston-Salem

Secure enclosure: A facility, suitable building, or fenced area that will prevent an animal from coming in contact with another animal or person, to which all entrances and exits can be securely locked, has a top and a concrete floor, and which facility has been approved by an animal control officer.

Nashville, TN

Domesticated hens: Means female chickens that may, where permitted, be kept and maintained for the non-commercial production of eggs, education, companionship, or recreation. Other types of fowl and poultry shall not be considered domesticated hens.

Asheville, NC

Fowl means any bird traditionally associated with sport, farming or production including, but not limited to poultry and game birds.

Humane care and treatment means maintaining an animal in an appropriate, sanitary environment. Humane care and treatment also considers the age, size, health problems, hardness and other characteristics of the individual animal in daily care to prevent avoidable harm and suffering.

Owner means any person who or legal entity that has a possessory property right in an animal or harbors an animal or has it in his/her care, custody or control, or knowingly permits said animal to remain on any premises occupied by him or her. Presumption of ownership may be rebutted by proof that such person has no property right in the animal, is neither harboring nor caring for the animal and, in the case of a dog, is not the licensed owner. Excepting article II of this chapter, owner does

not include veterinarians or commercial kennel operators temporarily maintaining on their premises for a period of less than 30 days animals owned by other persons.

Roanoke, VA

Poultry: shall mean any domesticated birds raised for food, either meat or eggs, feathers or show, including, but not limited to chickens, ducks, geese, swans, turkeys, guinea fowl and pigeons.”

Durham, NC

Definitions "Chicken", "Chicken Coop", and "Chicken Pen" are defined in Sec. 16.3, Defined Terms.

Chicken: Poultry or fowl of the species *Gallus gallus/G. gallus domesticus*. The species includes many different breeds of chicken.

Chicken Coop: A structure for the sheltering of chickens. An existing shed or garage can be used for this purpose under paragraph 5.4.12B, Domestic Chickens, if it meets the standards contained in paragraph 5.4.12B.7, Construction and Design. A chicken coop is an accessory structure under Sec. 5.4, Accessory Uses and Structures.

Chicken Pen: An enclosure that is connected to and/or surrounding a chicken coop for the purpose of allowing chickens to leave the coop while remaining in an enclosed predator safe environment.

Appendix 2-Nuisance Clause Examples

Winston-Salem, NC

Sec. 6-9. - Animal creating nuisance prohibited.

It shall be unlawful for any owner or custodian to permit his or her animal, or an animal in his or her care, to create a public nuisance. In such cases, and only in such cases, the owner or custodian must keep the animal that has been determined by the animal control department director to be creating a public nuisance on his or her own property at all times unless the animal is under physical restraint. If the animal control department director declares an animal to be a public nuisance under this section, then the director has the authority to instruct the animal's owner or custodian in writing to confine the animal in a secure enclosure when the animal is on the owner's or custodian's property and to restrain the animal by means of a leash, chain, or other like device when the animal is off the owner's or custodian's property. It shall be unlawful for the animal's owner or custodian to fail to comply with the animal control department director's instructions.

Charlotte, NC

Sec. 3-69. - Nuisance.

(a) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance or a nuisance to neighbors. By way of example and not of limitation, the following acts or actions of an owner, harbinger or possessor of an animal are hereby declared to be a public nuisance and are, therefore, unlawful: (1) Having an animal that disturbs the rights of, threatens the safety of or injures a member of the general public or interferes with the ordinary use and enjoyment of his property; (2) Permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers or vegetables; (3) Maintaining animals in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or is dangerous to the public health, welfare or safety, or failing to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease; (4) Maintaining property that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property; (5) Allowing or permitting an animal to bark, whine, howl, crow, cackle, or cause noise in an excessive, continuous or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises; (6) Maintaining an animal that is diseased and dangerous to the public health; (7) Maintaining an animal that habitually or repeatedly

chases, snaps at, attacks or barks at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles; (8) Failing to confine a female dog or cat while in season in a building or secure enclosure in such a manner that she cannot come into contact with another dog or cat or creates a nuisance by attracting other animals. However, this subsection shall not be construed to prohibit the intentional breeding of animals within an enclosed, concealed area on the premises of the owner of an animal which is being bred; or (9) Failing to remove feces deposited by a dog on any public street, sidewalk, gutter, park or other publicly owned property or private property unless the owner of the property has given permission allowing such use of the property. This subsection shall not apply to visually impaired persons who have charge, control or use of guide dogs or persons using dogs in conjunction with activities of the Charlotte-Mecklenburg Police Department. (b) It shall be the duty of anyone reporting an alleged nuisance under this section to reveal his identity to the bureau or the investigating law enforcement agency. Anonymous reports of alleged nuisances under this section shall not be investigated solely on the basis of the anonymous report. (c) In addition to any other enforcement remedies available under this chapter, if the bureau manager shall declare an animal a nuisance under this section, the bureau manager has the authority to order the owner to confine the animal in accordance with section 3-135. It shall be unlawful for the owner to fail to comply with such an order or with the instructions in the order.

(Code 1985, § 3-24)

Asheville, NC

Sec. 3-9. - Public nuisance.

(a) The keeping of any animal in such manner or in such numbers as to constitute a public nuisance is hereby prohibited. For the purposes of this section, a public nuisance shall include, but not be limited to, the following: (1) The keeping of any animal which by continued or repeated howling, yelping, barking or otherwise, causes loud noises which would disturb the quiet, comfort or repose of a reasonably prudent person on adjoining property; (2) The keeping of any animal which habitually is at large; (3) The keeping of a cage or pen constructed and used for the purpose of restraining animals within ten feet of the outer limits of the lot upon which the cage or pen is situated; provided, however, this setback requirement shall not be applicable where the placing of the cage or pen within the ten-foot area does not result in locating the cage or pen within 50 feet of the nearest household occupied by persons other than the owner or keeper of the cage or pen. This subsection shall not apply to the fencing of all or a major portion of a lot; (4) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers, or damaging gardens, flowers, or vegetables, or defecating upon the property of another; (5) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person on adjoining property; (6) The keeping, possession, harboring or feeding of animals; wild, feral or domesticated, which threaten the public health, safety and welfare of the community; provided, that nothing herein shall be construed to prohibit keeping or maintaining a bird feeder, or from feeding birds, unless said activity constitutes an attractant and its cessation is ordered by the animal control officer pursuant to this chapter. (7) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, animals walked on a leash, bicycles or other vehicles; (8) Failing to confine a female dog while in heat in a secure enclosure in such a manner that she will not be in contact with another dog, or attract other animals. (9) Except as otherwise provided in section 3-10, the keeping of seven or more animals per household or lot, regardless of lot size and regardless of whether any of the provisions of this section are violated. This subsection shall not apply to offspring under the age of 16 weeks and to animals kept by a kennel or pet shop licensed in accordance with state and local law and to animals kept by a kennel, pet shop or other facility licensed or registered by the department of agriculture or the veterinary medical board. (10) The tethering of any animal to public property or in a public right-of-way. (11) After having received a warning or order from an animal control officer to remove an attractant, knowingly or willfully keeping or storing attractants in a manner contrary to the warning or order.

Roanoke, VA

Sec. 6-94. - Violation of article as nuisance.

In addition to any penalty imposed for a violation of any provision of this article, such violation is hereby declared a public nuisance and any person suffering injury or damage therefrom may seek the correction, removal or abatement of such nuisance through appropriate suit in equity.

Albuquerque, NM- Regarding Noise

§ 9-2-4-7 ANIMAL NOISE

No person shall allow an Animal to persistently or continuously bark, howl or make noise common to its species to the extent that it causes a nuisance or as otherwise prohibited by this Chapter. This provision shall not apply to public Zoos and approved and properly zoned Animal Shelters as defined by this article.

Appendix 3-Proper Shelter Clause Examples

Winston-Salem, NC

Sec. 6-6.- Regulations for the Keeping of Chickens or other Fowl and Pigeons

(a) Sheltering and limits on the number and type of chickens or other fowl:

(i.) Enclosed run. Chickens or other fowl shall be kept in an enclosed run. Said enclosure shall be a minimum of four (4) feet in height and must be enclosed on all sides and the top with wire mesh fencing. The enclosed run shall provide at least ten (10) square feet of run area per chicken or other fowl. Any access gates or other access openings into the enclosed run shall be self-closing, self-latching and lockable.

(ii.) Coop. The coop shall be constructed of solid material and shall be located within the enclosed run or constructed and located so as only to provide ingress/egress for the chickens or other fowl into the enclosed run. The coop shall provide a minimum of three (3) square feet of floor area per chicken and shall be a minimum of two (2) feet in height per floor or level where chickens or other fowl are housed.

(iii.) Number and type. The maximum number of chickens or other fowl that can be kept on any residentially zoned property within the corporate limits of the city shall be five (5). All chickens shall be hens; no roosters are permitted.

(iv.) Enclosed run and coop materials. The enclosed run and coop shall be maintained in a clean and sanitary condition. All solid materials and fencing used in conjunction with the construction of the coop and enclosed run shall be suitable for exposure to moisture without deterioration and shall be conducive to regular cleaning and sanitation. Without limiting the materials that can be used, examples meeting this requirement are pressure treated wood, painted wood, wood frame with metal or vinyl siding, asphalt shingle roofing and metal roofing for the coop and galvanized or vinyl mesh fencing and fencing supports for the enclosed run.

(c) Setbacks for the keeping of chickens or other fowl and pigeons. The enclosed run for the keeping of chickens or other fowl and/or the enclosed run or coop for the keeping of pigeons shall be located in the rear yard and shall be no closer to the street than the rear yard of the dwelling or principal structure and at no time may be closer than twenty five (25) feet from any adjacent property line. If the enclosed run for the keeping of chickens or other fowl and/or the enclosed run or coop for the keeping of pigeons is at least 100 feet from all adjacent property lines (excluding the front property line) approval from adjoining neighbors is not required. When proposing to place the enclosed run and/or coop for the keeping of chickens or other fowl and pigeons greater than 25 feet but less than 100 feet from any adjacent property line(s), the property owner must have the notarized signature from the impacted adjacent property owner(s) on a statement indicating that the adjacent property owner(s) approve(s) of the location of the enclosed run and/or coop prior to applying for and receiving a permit for placement.

Charlotte, NC

Sec. 3-102. - City permits.

(b) Denial. When a permit is denied for any reason, the applicant shall be given a written explanation of the reason for denial. (c) Compliance required prior to issuance. An owner or possessor of such animals or fowl shall comply with the following applicable subsections before a permit is issued. Compliance with the following applicable subsections will create a rebuttable presumption that a permit shall be issued. That presumption may only be rebutted by specific findings supported by competent evidence that, despite compliance with the following, the presence of such animals or fowl is still likely to endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance to nearby residents or occupants or places of business: (1) Fowl and other specifically identified animals. The keeping of chickens, turkeys, ducks, guineas, geese, pheasants or other domestic fowl or rabbits shall be in compliance with the following: a. Such animals must be confined in a coop, fowl house or rabbit hutch not less than 18 inches in height. The fowl must be kept within the coop or fowl house and the rabbits in the hutch at all times. b. The coop or fowl house must be used for fowl only and the hutch for rabbits only, and both must be well ventilated. c. The coop, fowl house or hutch shall have a minimum of four square feet of floor area for each fowl or rabbit. d. The run must be well drained so there is no accumulation of moisture. e. The coop, fowl house or hutch shall be kept clean, sanitary and free from accumulation of animal excrement and objectionable odors. It shall be cleaned daily, and all droppings and body excretion shall be placed in a flyproof container and double-bagged in plastic bags. f. The coop, fowl house or hutch shall be a minimum of 25 feet from any property line. g. No more than 20 such fowl or rabbits shall be kept or maintained per acre. The number of fowl or rabbits should be proportionate to the acreage.

Winston-Salem, NC-Regarding Sanitation

Sec. 6-6. – Regulations for the Keeping of Chickens or other Fowl and Pigeons
Sanitation for chickens or other fowl and pigeons.

Any person who keeps, feeds or maintains chickens or other fowl and pigeons in the corporate limits of the city shall provide a bin or pit which shall be watertight and so arranged that it is fly-proof, or a watertight barrel with a close-fitting lid. Manure accumulating shall be placed in the bin, pit or barrel each day, and the manure shall be removed at intervals not longer than five days beginning from March 15 until September 15 of each year, and at intervals of one week from September 16 to March 14 of each year. Likewise, uneaten feed shall be placed in the bin, pit or barrel each day, and removed at the intervals specified above for manure.

Nashville, TN-Regarding Sanitation

8.12.020-Keeping of chickens.

F. Sanitation, Nuisance, and Humane Treatment

1.Waste storage and removal. Provision must be made for the storage and removal of chicken manure. All manure for composting or fertilizing shall be contained in a well-aerated garden compost pile. All other manure not used for composting or fertilizing shall be removed. In addition, the henhouse and surrounding area must be kept free from trash and accumulated droppings.

2.No perceptible odor from the hens or the hen enclosure shall be present at any property line.

3. All feed shall be stored in a rodent and predator-proof container having a metal lid.

Asheville, NC- Regarding Sanitation

Sec. 3-11. - Sanitation.

No keeper of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, play area or common grounds owned jointly by the members of a homeowners or condominium association, or upon private property without permission of the occupant of said property, unless such keeper immediately removes and disposes of all feces deposited by such animal by the following methods:

(1) Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container; and (2) Removal of such bag or container and disposition thereafter in a manner as otherwise permitted by law.

Everett, WA-Regarding Sanitation

6.04.070 Prohibited conduct.

A. Offenses Relating to Safety and Sanitation. It is unlawful for any person to:

1. Allow the accumulation of animal feces in any open area, run, cage or yard wherein animals are kept and to fail to remove or dispose of feces at least once every twenty-four hours;
2. Fail to remove the fecal matter deposited by his/her animal on public or private property of another before the owner and/or animal leaves the immediate area where the fecal matter was deposited;
3. Fail to have in his/her possession the equipment necessary to remove his/her animal's fecal matter when accompanied by said animal on public property or public easement;
4. Have possession or control of any animal sick or afflicted with any infectious or contagious disease and fail to provide treatment for such disease, or suffer or permit such diseased or infected animal to run at large, or come in contact with other animals, or drink at any public or common watering trough or stream accessible to other animals.
5. Owners of duly licensed "working dogs" are exempted from subsections (A)(2) and (3) of this section.

Albuquerque, NM- Disposal

9-2-4-6 IMPROPER DISPOSAL OF ANIMALS.

Deceased Animals shall be properly disposed of in accordance with this article. Following the death of an Animal, the Owner shall be responsible for removing the corpse immediately and disposing of the body by either private burial, private cremation, or taking the Animal to AACC. It is unlawful to dispose of the body of any Animal by dumping the corpse on public or private property, roads or rights-of-way.

Durham, NC- Disposal

Sec. 4-265. - Disposal of dead animals.

(a) Domesticated animal. Any person who owns or possesses any domesticated animal that has died shall comply with the requirements of G.S. 106-403 regarding the burial or removal of such animal carcass. When the owner of a dead domesticated animal is unknown, the Durham County Director of General Services may provide for the removal and disposal of any dead domesticated animal located within the limits of the county, but without the limits of the city, pursuant to G.S. 106-403. All costs incurred by the county in the removal of the dead domesticated animal shall be recoverable from the owner of such animal upon admission of ownership. Nothing in this section shall effect the department of transportation's responsibility to pick up dead animals that lie on the right-of-way.

Appendix 4-Animal Safety and Humane Treatment Clause Examples

Nashville, TN

8.12.020-Keeping of chickens.

F. Sanitation, Nuisance, and Humane Treatment

6. No domesticated hens shall be used or trained for the purpose of fighting for amusement, sport, or financial gain.

Albuquerque, NM

§ 9-2-4-8 ANIMAL FIGHTS.

(A) No Person shall promote, stage, hold, manage, conduct, carry on, train for or attend a game, exhibition, contest or fight in which one or more Animals is injuring, killing, maiming or destroying itself

or other Animals. Without limitation on the foregoing, Cockfighting is specifically included under this section.

(B) No Person shall provoke or entice an Animal from the property of its Owner for the purpose of engaging the Animal in an Animal fight.

(C) No Person shall commit the offense of Cockfighting. When any Person is charged with Cockfighting, the Mayor shall take the Fighting Birds at the location into Protective Custody. A Person commits the offense of Cockfighting if the person knowingly:

(1) owns, possesses, keeps, rears, breeds, trains, buys, sells, transports, or advertises or otherwise offers to sell a Fighting Bird;

(2) promotes or participates in, or performs services in furtherance of, the conducting of a Cockfight. Services in furtherance of a Cockfight include, but are not limited to, transporting spectators to a Cockfight, handling Fighting Birds, organizing, advertising or refereeing a Cockfight and providing, or acting as a stakeholder for, money wagered on a Cockfight;

(3) keeps, uses or manages, or accepts payment of admission to, a place for the conducting of a Cockfight;

(4) suffers or permits a place in the possession or control of the Person to be occupied, kept or used for the conducting of a Cockfight;

(5) manufactures, buys, sells, barter, exchanges, possesses, advertises or otherwise offers to sell a Gaff, Slasher or other sharp implement designed for attachment to a Fighting Bird or any other bird; or

(6) attends a Cockfight or pays admission at any location to view or bet on a Cockfight.

Asheville, NC

Sec. 3-12. - Animal care.

(a) It shall be unlawful for any owner to fail to provide his/her animals with sufficient food, water, shelter and protection from the weather, veterinary care and with humane care and treatment. (b) It shall be unlawful for any person to willfully or intentionally beat, injure, endanger, wound, torture, torment, disfigure, poison, overdrive, overload or otherwise abuse any animal. (c) It shall be unlawful for any person to cause, instigate, permit, organize or attend any dogfight, cockfight or other combat involving animals. (d) No person may transport any type of animal in a motor vehicle or in a wagon or trailer pulled by a motor vehicle, or in a truck or the back of a truck, in such a way as to cause pain, suffering, possible pain or death to the animal. Provided, however, there shall be no prohibition against the humane transportation of horses, cattle, sheep, poultry, or other livestock in trailers or other vehicles designed, constructed, and adequate for the size and number of animals being transported. (e) It shall be unlawful for any person to place or confine an animal or allow an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or drink, or such other conditions as may reasonably be expected to cause suffering, disability, or death. After making a reasonable effort to find the driver of a vehicle in which an animal is confined, the animal control officer, in the presence of a law enforcement officer, may use the least intrusive means to enter the vehicle if necessary to remove the animal, where reasonable cause exists to believe the animal may die if not immediately removed. (j) It shall be unlawful for any person to abandon any animal.

Durham, NC- How owners can protect their livestock from other animals

ARTICLE III. - ANIMAL ABUSE

Sec. 4-61. - Exemptions.

This article shall not apply to agencies conducting biomedical research or training, the production of livestock or poultry for sale as a consumer product and the lawful destruction of any animal for the purpose of protecting livestock, poultry or humans.

Appendix 5- Number of Hens Clause Example

Winston-Salem, NC

Sec. 6-6. – Regulations for the Keeping of Chickens or other Fowl and Pigeons

(a) Sheltering and limits on the number and type of chickens or other fowl:

(iii.) Number and type. The maximum number of chickens or other fowl that can be kept on any residentially zoned property within the corporate limits of the city shall be five (5). All chickens shall be hens; no roosters are permitted.

Charlotte, NC

Sec. 3-102. - City permits

g. No more than 20 such fowl or rabbits shall be kept or maintained per acre. The number of fowl or rabbits should be proportionate to the acreage.

Everett, WA

6.04.040 Facilities—Applicability of provisions.

A. Facilities housing at any time more than two adult dogs or cats, or a combination thereof, in excess of two dogs and two cats, or when the keeping of such animals produces more than one litter each year from all such animals housed, or an animal kennel or cattery, hobby kennel, or commercial kennel or cattery, or the keeping of any livestock or exotic, wild or dangerous animal, or the offering of any service for gain in connection with such facility, shall obtain a license in accordance with procedures, standards and limitations provided in this chapter; and no such facility may lawfully operate except upon application and payment of prescribed fees for such license. Issuance of such license shall not constitute approval of the land use, nor evidence compliance with zoning regulations which may apply to the proposed facility operation.

B. Exceptions to subsection A of this section shall be as follows:

1. Licensed veterinary hospitals and clinics are not required to obtain a facilities license. Any personal pets kept at the facility must be registered per Section 6.04.030(A) of this chapter.
2. Visiting animal exhibitions in the city limits for fifteen days or less must conform to facility standards, but are exempt from normal license fees.
3. Licensed commercial facilities established prior to the effective date of the ordinance amending this chapter shall not be required to purchase annual individual pet licenses for their breeding stock but shall be required to display personal ID tags.

C. Facilities housing less than six small livestock or litters from such livestock under twelve weeks of age are not required to obtain a facility license specifically related to those animals. (Ord. 2394-99 § 3, 1999; Ord. 1810-91 § 4, 1991)

Appendix 6- Rooster Clause Example

Durham, NC

B. Domestic Chickens

3. Number and Type of Chickens Allowed

The maximum number of chickens allowed is ten (10) per lot, regardless of how many dwelling units are on the lot. Only female chickens are allowed. There is no restriction on chicken breeds.

Albuquerque, NM

Sec 9-2-4-3 ANIMAL LIMITS AND RESTRICTIONS.

(3) Poultry. The Poultry limit is 15. No Person shall have more than one rooster in a Household.

Appendix 7- Slaughtering Clause Examples

Nashville, TN

8.12.020-Keeping of chickens.

F. Sanitation, Nuisance, and Humane Treatment

4. No slaughtering of domesticated hens may occur on the property.

Charlotte, NC

Sec. 3-102. - City permits.

(4) Slaughter. Any slaughter of any livestock or poultry not regulated by state law or otherwise forbidden or regulated shall be done only in a humane and sanitary manner and shall not be done open to the view of any public area or adjacent property owned by another.

Winston-Salem, NC

Sec. 6-6.- Regulations for the Keeping of Chickens or other Fowl and Pigeons

Sanitation for chickens or other fowl and pigeons

The slaughter of chickens or other fowl for personal use is allowed only on the property where the chickens or fowl are kept. The slaughter shall not be visible from public areas, the public right-of-way or any adjacent property. The slaughter must be performed in a sanitary manner with the proper disposal of all waste materials.

Rogers, AK

Sec. 6-230. - Running at large.

(b) It shall be lawful for any person to keep, permit, or allow any fowl within the corporate limits of the city in all zones other than A-1, under the following terms and conditions:

(3) There shall be no outside slaughtering of birds.

Albuquerque, NM

§ 9-2-4-2 SPECIFIC ACTIVITIES THAT CONSTITUTE CRUELTY TO AN ANIMAL.

Any Person who acts intentionally, willfully or maliciously is guilty of cruelty when engaged or attempting to engage in the following behavior:

(A) Killing or attempting to kill an Animal. Exceptions include:

(2) Killing a bird if such bird is Poultry owned by that Person and will be used for food;

Appendix 8-Permits, Fees, and Enforcement

Durham, NC-Permit and Enforcement

5.4.12 Limited Agriculture (City Only)

A. General

1. Permits Required

A permit under Sec. 3.22, Limited Agriculture Permit (City Only), is required in order to conduct the uses designated by this section. Such uses are distinct from agricultural uses or agricultural use categories permitted under this Ordinance. The limited agriculture permit is to the permittee and cannot be assigned.

2. Permit Revocation and Removal of Items

a. Compliance with the requirements of this Ordinance shall create a presumption that the permitted use does not create a nuisance or threat to public health or safety. The permit shall, however, be revoked if the Planning Director determines that the permitted use creates a nuisance or detriment to public health or safety.

b. Violation of ordinance standards shall result in permit revocation under paragraph 3.22.4, Revocation, and possible enforcement under Article 15, Enforcement, including civil and criminal

penalties. Misrepresentation by a permittee shall result in permit revocation or voiding under paragraph 15.3.7, Permit Revocation or Voiding.

c. Regardless of whether an ordinance violation has occurred, the Planning Director is authorized to order immediate removal of items and structures associated with the permitted use that the Director determines create a nuisance or detriment to public health or safety.

3. Non-Commercial Use Only

Uses authorized under a Limited Agriculture Permit shall be non-commercial only. Commercial activities are prohibited. Domestic animals authorized by a Limited Agriculture Permit shall be kept as pets or for personal use only.

4. Nuisance Prohibited

Uses authorized under a Limited Agriculture Permit shall not create a nuisance. Uses shall be conducted in a manner that does not disturb the use or enjoyment of adjacent properties. Odor generated shall not be perceptible at the property boundaries, and noise generated shall not disturb people of reasonable sensitivity at the property boundaries. Only motion-activated lighting shall be used to light any limited agricultural area.

5. Public Health and Safety

Uses authorized under a Limited Agriculture Permit shall not create a detriment to public health or safety.

Charlotte, NC-Permit and Enforcement

Sec. 3-102. - City permits.

(a) Required. It shall be unlawful for any person to own, keep, have, or maintain any equine animals, cloven-hoofed animals or other livestock or any chickens, turkeys, ducks, guineas, geese, pheasants, pigeons or other domestic fowl in the city without first receiving from the bureau a permit to do so or to continue to have any of such animals or fowl after a permit has been denied.

This section shall not apply to, and no permit shall be required for, any agricultural operation within G.S. 106-700, which pertains to nuisance liability of agricultural operation, or to any rabbit that is kept exclusively inside its owner's residence. The permit shall be valid for one year from the date of issuance and shall be renewed annually. The annual fee for such permit shall be \$40.00 per household. The application shall list all such animals and fowl on the premises. Before a permit is issued an employee of the bureau shall inspect the premises to determine if the keeping of the animals or fowl on the premises will endanger or is likely to endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance to nearby residents or occupants or places of business.

(b) Denial. When a permit is denied for any reason, the applicant shall be given a written explanation of the reason for denial. (c) Compliance required prior to issuance. An owner or possessor of such animals or fowl shall comply with the following applicable subsections before a permit is issued.

Compliance with the following applicable subsections will create a rebuttable presumption that a permit shall be issued.

(Code 1985, § 3-37; Ord. No. 2840, § 4, 12-13-2004)

Sec. 3-132. - Seizure, forfeiture, and disposition of animals.

Authority to seize and forfeit animals. In addition to any other authority or procedure authorized by this chapter or by any other law to seize an animal, the bureau shall have the authority to summarily seize and forfeit to the bureau any animal when the bureau determines that there is probable cause to believe that the animal: (1) Under the totality of the circumstances, is dangerous or prejudicial to the public safety or public health and the bureau has issued a probable cause notice on the animal (dangerous animals). (2) Is the subject of a violation of the following sections of this chapter:

3-61 Abandoned animals

3-62 Abuse of animals

3-63 Animal bite

- 3-66 Biting or attacking animals
- 3-69 Nuisance
- 3-71 Restraint of animals
- 3-101 License and rabies tags and fees
- 3-103 Permit for four or more dogs or cats kept outside
- 3-139 Uncared-for animals

(3) Is the subject of a violation of this chapter that is punishable by escalating civil penalties under section 3-33 and the escalated penalty appropriate to the specific violation includes seizure of the animal (civil). (b) Procedure. The procedures by which such seizures and forfeitures shall be accomplished shall be in accordance with subsequent sections as follows: (1) Dangerous animal seizures made pursuant to subsection (a)(1) of this section shall be conducted in accordance with the procedures set out in section 3-133. (2) Seizures made pursuant to subsections (a)(2) and (a)(3) of this section shall be conducted in accordance with the procedures set out in section 3-134. (Code 1985, § 3-49)

Winston-Salem, NC-Permit and Enforcement

Sec. 6-6. – Regulations for the Keeping of Chickens or other Fowl and Pigeons

(d) Permit required for the keeping of chickens or other fowl and pigeons. A zoning permit issued by the Inspections Division is necessary prior to constructing and/or erecting the enclosed run and/or coop. Submittal requirements shall include, but may not be limited to, a scaled site plan showing all property lines and existing structures, the proposed enclosure and/or coop, the distance from the property lines to the proposed enclosure and/or coop, as well as a sketch or elevation(s) of the planned enclosure and/or coop design and a materials list indicating what the enclosure and/or coop will be constructed of. When the proposed enclosure and/or coop for the keeping of chickens or other fowl and pigeons is located closer to the adjacent property owner(s) than 100 feet, the notarized statement outlined in Section 6-6(d) must be provided. Additional information may be necessary to ensure compliance with these and other requirements. Sheesh! That's so much work...

(e) Permit renewal and revocation. The zoning permit shall automatically renew annually. Should two (2) confirmed/sustained Notices of Violations (NOVs) concerning violations of the provisions of this Section (Section 6-6) be issued within a two (2) year period, the permit shall automatically be revoked. Upon permit revocation, the property owner shall be prohibited from keeping or applying for a permit to keep chickens or other fowl and pigeons for a period of two (2) years. Following the two (2) year period, the property owner may re-apply for a permit

Nashville, TN-Permit and Enforcement

8.12.020-Keeping of chickens.

C. An annual permit issued by the department of health shall be required for the keeping of domesticated hens on residential property where allowed by Title 17 of the Metropolitan Code, provided that no permit shall be required for property that is zoned for agricultural uses.

G. Application for permit. Every applicant for a permit to keep domesticated hens shall:

1. Complete and file an application on a form prescribed by the department of health.
 2. Deposit the prescribed permit fee with the department of health at the time the application is filed.
- Any material misstatement or omission shall be grounds for denial, suspension or revocation of the permit.

H. Approval of permit. The department of health shall issue a permit if the applicant submits an affidavit attesting that he/she is in compliance with the criteria and standards in this section.

I. Denial, suspension or revocation of permit. The department of health shall deny a permit if the applicant fails to submit an affidavit demonstrating compliance with all provisions of this section. A permit to keep domesticated hens may be suspended or revoked by the department of health where there is a risk to public health or safety or for any violation of or failure to comply with any of the provisions of this section or with the provisions of any other applicable ordinance or law, provided that

a permit to keep domesticated hens shall be revoked in the event a court of competent jurisdiction finds three (3) or more separate violations of the provisions of this Section and/or of Section 17.16.250.B of the Metropolitan Code within a twenty-four (24) month period. Any denial, revocation, or suspension of a permit shall be in writing and shall include notification of the right to and procedure for appeal. In the event a permit to keep domesticated hens at a particular address is revoked pursuant to the provisions of this subsection, no new permit shall be issued by the department of health for the same address unless the property changes ownership or a new tenant is residing at the address.

Everett, WA-Enforcement

6.04.070 Prohibited conduct.

D. Violation of subsection (C)(7) of this section shall constitute a gross misdemeanor, and may be punished by a fine and/or imprisonment up to the maximum fine amount and term of imprisonment set forth in Section 10.04.080(A). Violation of any of the remaining provisions of subsection C of this section shall constitute a misdemeanor, and may be punished by a fine not to exceed one thousand dollars, or imprisonment not to exceed ninety days, or both such fine and imprisonment. (Ord. 3236-11 § 9, 2011; Ord. 2873-05 § 1, 2005; Ord. 2394-99 § 6, 1999; Ord. 2091-95 § 1, 1995; Ord. 1810-91 § 7, 1991)

6.04.140 Violation—Penalty.

A. Unless otherwise provided, violation of any of the provisions of this chapter constitutes an infraction, and may be punished by a fine not to exceed two hundred fifty dollars.

B. Unless otherwise provided, every person who violates this chapter a second time within a two-year period shall be guilty of a misdemeanor, punishable by a fine not less than one hundred dollars nor more than five hundred dollars. One hundred dollars of the fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or part of this fine.

C. Unless otherwise provided, every person who violates this chapter a third time within a two-year period shall be guilty of a misdemeanor, punishable by a fine not less than two hundred fifty dollars nor more than one thousand dollars. Two hundred fifty dollars of the fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or part of this fine.

D. Penalty and enforcement provisions provided in this chapter shall not be deemed exclusive, and the city may pursue any remedy or relief it deems appropriate.

E. Notwithstanding the other provisions provided in this chapter, anything done contrary to the provisions of this chapter of the failure to comply with the provision of this chapter is declared to be a public nuisance.

F. The city is authorized to apply to any court of competent jurisdiction for and such court, upon hearing and for cause shown, may grant a preliminary, temporary or permanent injunction restraining any person, firm, and/or corporation from violating any of the provisions of this chapter and compelling compliance with the provisions thereof and the violator shall pay all city costs of seeking such injunction in the event the city is successful in obtaining the injunction. (Ord. 2394-99 § 10, 1999; Ord. 1810-91 § 14, 1991)

Appendix 9- Chickens at Large

Durham, NC

Sec. 6-4. Fowl at large; impounding.

Any person, upon whose premises any poultry may run at large, in contravention of this Code or any other ordinance of the city, may distraint such poultry and turn them over to the police authorities of the city, who shall impound them for the costs of the proceedings against the owner of the poultry and any fine and other cost incurred by reason of such running at large. If the fine and costs assessed against

the owner are not promptly paid, the trial court may order such poultry sold, and the proceeds of the sale be applied to the payment of the fines, penalties and costs assessed against the owners.

Appendix 10- Non-permit Based Ordinance

Atlanta, GA

Sec. 18-7. Enclosures for keeping small animals.

Small animals, such as dogs, rabbits, guinea pigs, chickens, turkeys and the like, may be kept within the city limits, subject to the following:

- (1) *Condition, size.* All these animals must be provided with adequate housing. The houses, hutches, pens or other enclosures wherein animals are kept shall have a solid floor made of cement or other suitable washable material, except when pens are 75 feet or more from the nearest neighbor's residence or place of business. Floor space in all these houses, hutches, pens or enclosures, wherever located, must have the following minima:
 - a. Dogs and miniature pot bellied pigs, 100 square feet per animal over four months of age.
 - b. Rabbits or guinea pigs, four square feet per animal over four months of age.
 - c. Turkeys, four square feet per bird over four months of age.
 - d. Chickens and similar fowl, two square feet per bird over four months of age.
 - e. Bantams, one square foot per bird over four months of age.
- (2) *Location.* Pens or yards where such animals and birds are kept shall be placed at the following minimum distances from any residence or business establishment:
 - a. Distance from any residence, except that of owner, or any business establishment, 50 feet.
 - b. Distance from owner's residence, five feet.
- (3) *Maximum number.* The maximum number of such animals which may be kept on a single premises shall not exceed the following:
 - a. Dogs, ten.
 - b. Rabbits or guinea pigs, 75.
 - c. Turkeys, chickens, bantams or similar fowl, 25.
 - d. Miniature pot-bellied pigs, 1.

Bibliography for Appendices

- Albuquerque, New Mexico. *City of Albuquerque, New Mexico Code of Ordinances*. Cincinnati, OH: American Legal Publishing Corporation, 2017.
- Council of the Metropolitan Government of Nashville and Davidson County. "Substitute Ordinance NO. BL2011-47." Last modified 2012.
https://www.nashville.gov/mc/ordinances/term_2011_2015/bl2011_47.htm.
- Everett, Washington. *Everett Municipal Code*. Seattle WA: Code Publishing Company, 2017.
- Durham City. *Durham North Carolina: Unified Development Ordinance*. Durham, NC, 2017. Retrieved from <http://durhamnc.gov/414/Unified-Development-Ordinance-UDO>.
- Officials of the City of Atlanta, Georgia at the time of this codification. *Code of Ordinances City of Atlanta, Georgia*. Tallahassee, FL: Municipal Code Corporation, 2017.
- Officials of the City of Asheville, North Carolina at the time of this codification. *Code of Ordinances City of Asheville, North Carolina*. Tallahassee, FL: Municipal Code Corporation, 1993.
- Officials of the City of Charlotte, North Carolina at the time of this codification. *Code of Ordinances City of Charlotte, North Carolina*. Tallahassee, FL: Municipal Code Corporation, 2003.
- Officials of the City of Roanoke, Virginia at the time of this codification. *Code of the City of Roanoke (1979)*. Tallahassee, FL: Municipal Code Corporation, 1980.
- Officials of the City of Rogers, Arkansas at the time of this codification. *Code of Ordinances City of Rogers, Arkansas*. Tallahassee, FL: Municipal Code Corporation, 2010.

Winston-Salem. "Keeping Chickens, Fowl and Pigeons Application." *Winston-Salem/Forsyth County Inspections Division*, 2012.

ⁱ Veronica Hirsch, "Detailed Discussions of Legal Protections of the Domestic Chicken in the United States and Europe," *East Lansing, Michigan: Michigan State University College of Law*, 2003, <https://www.animallaw.info/article/detailed-discussion-legal-protections-domestic-chicken-united-states-and-europe>; National Chicken Council, "U.S. Chicken Industry History," last modified 2012, <http://www.nationalchickencouncil.org/about-the-industry/history/>.

ⁱⁱ K.T. LaBadie, "Residential Urban Chicken Keeping: An Examination of 25 Cities (CRP 580, Rep.)," (Albuquerque, New Mexico: University of New Mexico, 2008), 4; "The Many Benefits of Backyard Chickens," Green America, last modified 2017, <https://www.greenamerica.org/green-living/many-benefits-backyard-chickens>; Tanya Bailey and Jean Larson, "Backyard Poultry: Implications for Public Health and Safety (Rep.)," (Minneapolis, Minnesota: University of Minnesota: Food Policy Research Center, 2013), 1.

ⁱⁱⁱ Cass Clay Food Systems Initiative, "Urban Agriculture and Backyard Chickens (Rep.)," (Minneapolis, Minnesota, 2016), 1; K.T. LaBadie, "Residential Urban Chicken Keeping," 6.

^{iv} K.T. LaBadie, "Residential Urban Chicken Keeping," 9-10.

^v K.T. LaBadie, "Residential Urban Chicken Keeping," 9-10; Cass Clay Food Systems Initiative, "Urban Agriculture," 2-3.

^{vi} Tanya Bailey and Jean Larson, "Backyard Poultry," 1.

^{vii} K.T. LaBadie, "Residential Urban Chicken Keeping," 13-14.

^{viii} *Ibid*, 8.

^{ix} *Ibid*, 10.