

Agenda
Shady Cove Planning Commission Meeting
Thursday, August 25, 2022
6:00 PM

<https://us02web.zoom.us/j/89359583036?pwd=Mm5mY1BKQThlZXJZazdOZ0c4ZUdvdz09>

Meeting ID: 893 5958 3036

Passcode: 615169

+17193594580,,89359583036#,,,,*615169# US

+12532158782,,89359583036#,,,,*615169# US (Tacoma)

I. Call to Order

A. Roll call.

B. Announcements by Presiding Officer.

1. This meeting is being digitally recorded.
2. The next regularly scheduled meeting of the Planning Commission will be held on September 8, 2022, at 6:00 PM both in Council Chambers and via Zoom.
3. The meeting date is subject to change.

II. Consent Calendar

A. Planning Commission Meeting Minutes

III. New Business

None

IV. Subject of Workshop

A. Discussion – Chicken Ordinance Draft for Commission Review

B. Discussion – Comprehensive Plan Review

C. Discussion – Strategic Plan Review

V. Department Reports

A. Planning Technician Report

VI. Public Comment

VII. Commissioner Comments

VIII. Adjournment

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department at (541) 878-2225. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).



ROGUE VALLEY
Council of Governments

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MEMORANDUM

Date: August 18, 2022
To: Shady Cove Planning Commission
From: Ryan Nolan, Principle Planner, and James Schireman, Assistant Planner
Subject: Chicken Background Research and Model Ordinance

On request from the Planning Commission, Staff has conducted further research on the facts of chicken ownership in urban environments and developed a potential Ordinance. The purpose of this memo is to inform members of the Commission of the factors to consider in specifying such an Ordinance. Section 1 of this memo details potential concerns and nuisances regarding chicken within city limits, Section 2 the general facts of chickens and their behavior, while Section 3 examines what other cities do in regards to regulating chickens. The analysis of all these factors amounts to Section 4, which features a model Ordinance as a starting point for Shady Cove. Such an Ordinance is encouraged to be thoroughly edited and adjusted to suit the local conditions of the City. This memo is largely based off finding published by the Environmental Law Institute, specifically Jaime Bouvier's paper, *Illegal Fowl: A Survey of Municipal Laws Relating to Backyard Poultry and a Model Ordinance for Regulating City Chickens. Planning Advisory Service 563: Urban Agriculture*, also proved valuable in researching the criteria for drafting a model ordinance.

Section 1: Potential Concerns and Nuisances

Noise: Roosters are an immediate concern when it comes to noise producing by chicken owning properties. Moreover, the idea that Roosters only crow at dawn is largely a myth, and surgeries that claim to stifle the ability result in animal death over 50% of the time and have therefore are no longer performed.¹ Hens however, produce an amount of noise close to human conversation, around 65 decibels.² By comparison, the barking of a single dog can reach 100 decibels.³

¹ *Small and Backyard Flocks*, Ky. U. Ext., <http://www.ca.uky.edu/smallflocks/faq.html#Q31>

² *Protecting Against Noise*, National Ag Safety Database, The Ohio State University Extension, <http://nasdonline.org/document/1744/d001721/protecting-against-noise.html>

³ Crista L. Coppola et al., *Noise in the Animal Shelter Environment: Building Design and the Effects of Daily Noise Exposure*, 9(1) J. applied Animal Welfare Sci. 1-7 (2006).

Odor: The notion of chicken droppings causing odors commonly stems from factory farming operations.⁴ More often, the pungent scent of ammonia can be a byproduct of a poorly ventilated and moist chicken coop.⁵

Disease: Two diseases are most prevalent related to the keeping of backyard chickens: Salmonella and Avian flu. A CDC study of Salmonella outbreaks related the keeping of backyard poultry found 8 people in Oregon contracted Salmonella in 2021.⁶ Throughout the U.S, the highest number of affected individuals in any one state was 73, located in Wisconsin. The CDC guidelines offers numerous guidelines on the handling of chickens and eggs, but regulations regarding slaughter and sale of meat would not apply to backyard chickens as usually provisioned.

Avian flu is valid concern regarding the keeping of chickens in residential areas. On July 19th, 2022, the Oregon Department of Agriculture confirmed a ninth detection of highly pathogenic avian influenza (HPAI) in a non-commercial flock in Deschutes County. Most often, the disease is transferred between wild and domestic birds and requires the humane euthanasia of the entire flock to prevent spread. In order to prevent the spread of HPAI, flock owners are expected to frequently sanitize equipment and quarters, while also keeping cross contamination to a minimum.⁷

Slaughter: While many egg laying hens aren't traditionally butchered for their meat, individuals who raise Hens for the sole purpose of producing eggs may be tempted maximize their use of the animal upon death. Many local butchers offer services to harvest meat from farm animals in sanitary, efficient, and private manner.

Greenhouse Gasses: While methane is a natural byproduct of an animal's digestion, the amount poultry produces is negligible compared to ruminant animals such as cows and buffaloes. Large livestock such as these animals produce nearly 55 kilograms of methane per year, while both humans and chickens produce only 0.05 kg per year.⁸

Running Wild: Similar to concerns regarding other loose animals, Chickens running wild can result in property damage or accidental animal death. Moreover, the spread of Avian Flu becomes much more likely when Chickens are left unconfined. As such, for both citizens and the animal's safety, Chickens should be kept in an enclosed space at all times.

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

5 Doug Gurian Sherman, *CAFOS Uncovered, The Untold Costs of Animal Feeding Operations*, Union of Concerned Scientists, Apr. 2008, http://www.ucsusa.org/assets/documents/food_and_agriculture/cafos-uncovered.pdf; *Iowa Concentrated Animal Feeding Operations and Air Quality Study*, Final Report, Iowa State University and the University of Iowa Study Group (Feb. 2002)

6 Salmonella Outbreaks Linked to Backyard Poultry <https://www.cdc.gov/salmonella/backyardpoultry-05-21/index.html>

7 Avian Influenza

<https://www.oregon.gov/oda/programs/animalhealthfeedslivestockid/animaldiseases/pages/avianinfluenza.aspx>

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

Vicious and Exotic Species: Allowing the ownership of chickens may lead citizens to believe all birds are made equal and provisioned under such an ordinance. In actuality, geese, peafowl, guinea fowl, and emus differ greatly in terms of needs, care, and enclosure requirements. Moreover, many of these animals are included among hens to purposely defend the flock, and can demonstrate an aggressive attitude towards humans.

Section 2: Background Regarding Chickens

Hens are social animals: Chickens often demonstrate affiliative behavior by eating or preening together. In the wild, flocks often form subgroups consisting of 4-6 chickens.⁹ Chickens left alone demonstrate a depressed behavior or can even appear physically ill.¹⁰

The pecking order: This term originates from the social hierarchy commonly established among flocks of chickens. Initially, chickens may demonstrate aggressive behavior to assert dominance over others, but once an order is established the behavior should abate. Studies have shown however, that the pecking order is most present in dense concentrations of chickens, while those flocks that have 6 or fewer chickens per 10 square feet demonstrate significantly reduced behavior.¹¹ Farmers have found that the potential abuse is spread out more evenly when hens are introduced in pairs. Therefore, a minimum of 4 hens usually ensures no hen is left without a companion, while pairs can be regularly introduced.

Roosters crow often: While some roosters regularly crow with dawn, they often do so throughout the entire day as well. In dense urban areas, this noise can definitely be interpreted as a repeating nuisance.

Predators: While hens located within the confines of a backyard may be more protected from predators than rural counterparts, urban areas still feature predators. Raccoons, hawks, skunks, and even coyotes can pose a threat to chickens without a defensible coop.

Hens don't need Roosters to lay eggs: Roosters are only required to fertilize eggs laid by hens. While some towns allow "conjugal visits" to help fertilize their eggs and add to the flock, many local businesses such as the Grange Co-Op regularly sell chicks in the spring.

Section 3: Current Ordinances

Currently, a large majority of the top 100 most populous cities allow chickens within their city limits. In 2000, 94% allowed the keeping of chickens in some provisions, while the remaining 6 cities either outright banned or implemented numerous barriers to chicken ownership. Of the aforementioned 94 cities, below are some of the most popular practices and policies related to regulating chickens.

1: Most cities regulate chickens in sections devoted to animals or zoning. 71 cities regulate chickens under animal control ordinances, while 14 do so under their zoning laws.

⁹ Nicolas Lampkin, Organic Poultry Production, Welsh Inst. of Rural Studies 20 (Mar. 1997), available at http://orgprints.org/9975/1/Organic_Poultry_Production.pdf.

¹⁰ Ian J.H. Duncan & Penny Hawkins, *The Welfare of Domestic Fowl & Other Captive Birds* 68-69 (2010).

¹¹ B. Huber-Eicher & L. Audigé, *Analysis of Risk Factors for the Occurrence of Feather Pecking Among Laying Hen Growers*, 40 *British Poultry Sci.* 599-604 (1999)

Under animal control regulations, chickens are either defined as backyard or micro livestock, but are typically excluded from the definition of pet due to their production of eggs. When included within a section pertaining to zoning, Chickens are typically defined as a conditional agricultural use. Chickens designated by zone can offer a city more control of where ownership occurs, but can conversely exhaust resources when citizens petition for a variance for the right to raise chickens. Furthermore, the high density of building codes and zoning regulations in this sections means the regulation relating to chickens can be easily lost among others.

2: Of the 94 cities that allow chickens, 31 impose restrictions based on property size. Of those 31, 17 prefer to do so implicitly based on zoning through minimum lot sizes, while the remaining 16 directly correlate to parcel size (Two cities perform both practices, adding up to 33).

A: Zoning requirements: Of the 17 cities utilizing zoning requires, 6 are stringent in where chickens can be raised. Birmingham, Chesapeake, Hialeah, Jacksonville, Montgomery, and Virginia Beach all require chickens to be raised in agricultural to low density residential zones.¹² Conversely, some cities allow chickens across a wider array of zones, and only use the designation to implement differing coop standards.¹³

B: Lot Size requirements: Lot size requirements can range from as much to 1 acre¹⁴ to as little as 240 square feet.¹⁵ Generally, the larger lot requirements are more often seen as barrier to chicken ownership rather than a protection for surrounding parcels.

3: Cities that don't restrict based on parcel size, instead use it to determine the maximum number of chickens. Seattle allows up to 8 chickens for lots under 10,000 square feet, and then 1 additional chicken per 1,000 square feet beyond.¹⁶ Fremont instead features a step system, which arranges maximum number of chickens in a range, with four chickens for at least 6,000 square feet, six for at least 8,000 square feet, 10 for at least 10,000, 20 for at least 1/2 acre, and 25 for more than one acre.¹⁷

4: Of 94 cities allowing them, 30 cities place a maximum limit on the number of chickens. The average maximum is 12, the median 9, while the mode is a tie between 4 and 25.

5: Setbacks are the most popular regulation among cities, as 63 have some form of setback requirement.⁵⁶ require that chickens and coops be kept a certain distance from residences, while 20 base the distance off the property line.

¹² Birmingham, Ala., Zoning Ordinance §2.4.1 (2007); Chesapeake, Va., Code of Ordinances ch. 10 (2011); Hialeah, Fla.,

Code of Ordinances §§10.1 & 10.2 (2011); Jacksonville, Fla., Ordinance Code tit. XIII, ch. 462, tit. XVII, ch. 656 (2011); Montgomery, Ala., Code of Ordinances app. C, art. VII (2011). Virginia Beach, Va., City Code §5-545 app. A (2011).

¹³ Memphis, Tenn., Code of Ordinances tit. 16 (2009).

¹⁴ Nashville-Davidson, Tenn., Mun. Code §17-16-330(b) (2011); Pittsburgh, Pa., Code of Ordinances §§635.02, 911.04.A.2 (2011); Phila.,Pa., Code §10-112 (2011); Oklahoma City, Okla., Mun. Code §59-9350 (2011); Richmond, Va., Code of Ordinances §10-88 (2011).

¹⁵ Rochester, N.Y., City Ordinances §30-12, 30-19 (no date listed)

¹⁶ Seattle, Wash., Mun. Code §23.42.052(C) (2011).

¹⁷ Fremont, Cal., Mun. Code §3-5803 (2011).

A: Setbacks from Buildings: Setbacks range from 10¹⁸ feet to 500¹⁹ feet, but the average is 80 feet. The median and mode are 50 feet. Some cities eliminate the setback requirement if an applicant is able to provide consent from all surrounding neighbors.²⁰

B: Setback from Property Lines: Setbacks range from 18 inches²¹ to 250 feet²², while the average is 59 feet. The median is 25 feet while the mode is either 20 or 25 feet.

6: Coop requirements vary greatly from city to city. 37 cities regulate the construction of a chicken coop, 9 of which base construction on square feet per chicken. Of these requirements, the average is 5 square feet, while the median and mode is 4 square feet. Some cities also take care in identifying run dimensions versus coop dimensions. Others specify that the coop remain spacious and clean, deferring any dimensional restrictions. A local jurisdiction, Ashland, offers a robust set of regulations regarding chicken coops as an accessory structure in §18.2.5.040(E):

E. Micro-Livestock Enclosure. An enclosure housing micro-livestock may be maintained in a residential district, pursuant to section 18.2.3.160. Enclosures shall be constructed as follows:

- 1. The structure shall not be located in a required front yard.*
- 2. The structures shall be setback a minimum of ten feet from abutting properties as illustrated in Figure 18.2.5.040.E.2.*
- 3. The structures shall be at least 20 feet from dwellings on adjoining properties. Within a multifamily complex, structures must also be located at least 20 feet from any dwelling within the complex.*
- 4. The structures shall not exceed six feet in height.*
- 5. Chicken coops and rabbit hutches shall not exceed 40 square feet in area, or four square feet per animal, whichever is greater.*
- 6. Chicken and rabbit runs, as enclosed outdoor structures, shall not exceed 100 square feet in area, or ten square feet per animal, whichever is greater.*

18 Seattle, Wash., Mun. Code §23.42.052(c)(3) (2011).

19 Richmond, Va., Code of Ordinances §10-88 (2011). (Since Richmond also requires an acre of land to even own chickens, this setback doesn't exclude any additional would-be chicken owners.)

20 Las Vegas, Nev., Mun. Code §7.38.050 (2011) (300 ft. without permission); Phoenix, Ariz., City Code §8-10 (2011) (80 ft. without permission); St. Petersburg, Fla., Code of Ordinances §4-31(d) (2011) (100 ft. without permission); Tacoma, Wash., Mun. Code §§5.30.010 & 5.30.030 (2011) (50 ft. without permission).

21 Cleveland, Ohio, Codified Ordinances §347.02 (2011); Buffalo, N.Y., City Code §341-11.3 (2009).

22 Wash., D.C., Mun. Regulations for Animal Control §902.7 (no date listed) (250 ft. setback without consent of neighbors).

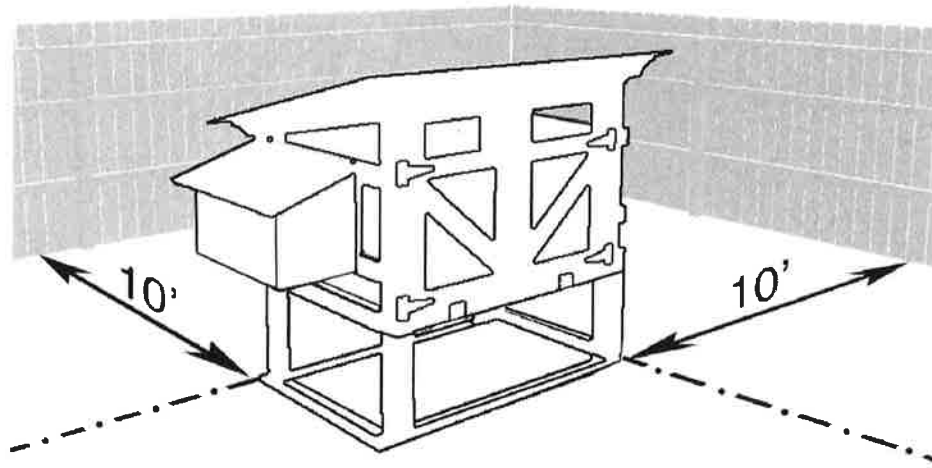


Figure 18.2.5.040.E.2. Micro-Livestock Enclosure/Minimum Setback to Property Line ²³

7: 38 cities require permits, and initial fees can range from \$25 to \$72.²⁴ One interesting practice implemented in the city of Buffalo is a permit comment period, running from May 1st to June 1st, right before each permit is annually renewed. During this period, the city council hears all potential complaints and rebuttals, before ultimately deciding whether or not to renew permit for the accused parcel.²⁵

8: 13 cities regulate slaughter, with 6 banning it outright. 3 cities allow chickens to be slaughtered, but require it not occur outdoors or in a public place.²⁶ Chesapeake directly addresses the concerns of dogs attacking backyard chickens, mandating compensation of no more than \$10 per fowl.²⁷

9: A large majority of cities that allow hens ban roosters. Cities that don't ban roosters outright instead impose hefty setbacks, ranging from 100²⁸ to 500 feet.²⁹ If cities don't directly address the banning of roosters, their health and safety elements clearly contain the crowing of a rooster as a potential nuisance.

²³ Ashland, OR, Land Use Ordinance §18.2.5.040(E)

²⁴ Buffalo, N.Y., City Code §341-11.1(G) (2009) (\$25 annual fee); St. Paul, Minn. §198.04(c) (2011) (\$72 initial fee and \$25 annual fee)

²⁵ Buffalo, N.Y., City Code §341-11.4 (2009).

²⁶ Buffalo, N.Y., City Code §341-11.3(d) (2009) ("There shall be no outdoor slaughtering of chicken hens."); Charlotte, N.C., Code of Ordinances §3-102(c)(4) (2010); (providing that any slaughter "shall be done only in a humane and sanitary manner and shall not be done open to the view of any public area or adjacent property owned by another"); Pittsburgh, Pa., Code of Ordinances §911.04.A.2 (2011) ("Killing or dressing of poultry raised on the premises shall be permitted if conducted entirely within an enclosed building.")

²⁷ Chesapeake, Va., Code of Ordinances §10-19 (2011).

²⁸ Cleveland, Ohio, Codified Ordinances §347.02(b)(1)(c) (2011).

²⁹ Glendale, Ariz., Code of Ordinances pt. II, art. 5 (2010) (multiple provisions in zoning code relating to roosters).

Section 4: A Model Ordinance

- (a) **Purpose.** The following regulations will govern the keeping of chickens and are designed to prevent nuisances and conditions that are unsanitary or unsafe. In addition the ordinance as provisioned should provide clear and objective standards.
- (b) **Regulations.** No person shall keep chickens, whether for utility or companionship, unless all of the following regulations are followed.

A. Zoning. Hens shall only be kept in R-1 parcels.

B. Size: Maximum flock size will correlate with minimum parcel size, as stated by zoning designation and the table below. For purposes of this ordinance, a mature chicken will be defined as being older than 20 weeks, while a juvenile will be 20 weeks old or younger.

Zoning	Maximum amount of mature Chickens	Maximum amount of juvenile Chicks (male or female)
R-1-00	4	12
R-1-6	8	24
R-1-10	10	30
R-1-20	14	42
R-1-40	16	48

- C. Setbacks.** Coops housing chickens shall be kept at least 5 feet from all adjacent property lines. Coops shall not be located in the front yard.
- D. Enclosure.** Hens shall be provided with a covered, predator-proof coop or cage that is well ventilated and designed to be easily accessed for cleaning. The coop shall allow at least two square feet per hen. Hens shall have access to an outdoor enclosure that is adequately fenced to allow the birds free range on the property and to prevent predators from access to the birds. Hens shall not be allowed out of these enclosures unless a responsible individual is directly monitoring the hens and able to immediately return the hens to the cage or coop if necessary.
- E. Sanitation.** The coop and outdoor enclosure must be kept in a sanitary condition and free from offensive odors. The coop and outdoor enclosure must be cleaned on a regular basis to prevent accumulation of waste
- F. Slaughtering.** There shall be no outdoor or public slaughtering of Chickens.
- G. Roosters.** Up to 10 days a year, a rooster may be allowed on a residential parcel for the sole purpose of fertilizing eggs. Roosters are otherwise banned within city limits.
- H. Exotic Species.** It is unlawful for any person to keep exotic or unusual fowl, including, but not limited to: peahens, emus, guinea fowl, turkeys, ostriches, or such any similar species.

(c) Existing Backyard Chickens. Homes currently raising chickens shall be grandfathered into this ordinance, provided:

- A.** Their operation is continual
- B.** There is no significant increase in intensity, as indicated by maximum allotted chickens per zone.

Staff recommends the Planning Commission deliberate the Model Code so that it may be presented to the City Council and Public for final approval.

Sincerely,

A handwritten signature in cursive script that reads "James Schireman".

James Schireman | Assistant Planner & GIS Specialist

07/25/22 Through 08/19/22 Planning and Building Activities

YEAR Permit No.	BUILDING PERMITS			
	DATE	NAME	ADDRESS	TAX LOT
22-19	7/18/22	McKenzie	1060 Anglers Place	305
22-20	7/28/22	Melvin Hodson	632 Sarma Dr	1703
22-21	8/2/22	EPDS #9	100 Cleveland St	1600
22-22	8/12/22	Youth 71Five Ministries	25 Erickson Ave	1300

PLANNING APPLICATIONS

Property Action Log	Name	Address	Notices Mailed	Comments due back	Staff report due	Section/TL
7/14/2022 PLA 22-03	Berto / Grimes	22175/22195 Hwy 62	NA			15BA 4300/44C
7/21/2022 DR 22-01	Berto	22175 Hwy 62				15BA 4300

FLOODPLAIN CLEARANCE FOR PERMIT

7/25/2022 FPA 22-05 City of Shady Co 2501 Indian Creek 15 1103