

**CITY OF WEST DES MOINES  
PLAN AND ZONING COMMISSION COMMUNICATION**

**Meeting Date:** November 9, 2020

**Item:** Ordinance Amendment – Amend Title 5 (Police Regulations) and Title 9 (Zoning) to modify regulations pertaining to keeping of animals – City Initiated – AO-004869-2020

**Requested Action:** Recommend Approval of Ordinance Amendment

**Case Advisor:** Brian Portz, AICP

**Applicant's Request:** City staff is initiating an amendment to the chapters and sections identified below in Title 5 (Police Regulations) and Title 9 (Zoning) of the City Code to modify regulations pertaining to animal keeping as currently regulated within City Code. The intent with the amendments to Title 9 is to only regulate in the zoning code those animals which have a land use aspect (i.e. agricultural production animals, bees, etc.). Any animal that doesn't meet the test in Title 9 will be regulated under the animal control section of Title 5.

- Title 5: *Police Regulations*,
  - Chapter 3: *Animal Control*, Section 2: *Definitions*
  - Chapter 3: *Animal Control*, Section 19: *Keeping of Certain Animals Prohibited*
  - Chapter 3: *Animal Control*, Article A: *Dogs and Cats*, Section 15: *Limited Number of Animals Allowed*
- Title 9: *Zoning*,
  - Chapter 2: *Zoning Rules and Definitions*, Section 2: *Definitions*
  - Chapter 5: *Agricultural/Open Space and Residential Zoning Districts*, Section 8: *Open Space/Agricultural and Residential Use Regulations*, Subsection C: *Use Matrices*, Table 5.2: *Equestrian Uses*
  - Chapter 5: *Agricultural/Open Space and Residential Zoning Districts*, Section 8: *Open Space/Agricultural and Residential Use Regulations*, Subsection C: *Use Matrices*, Table 5.3: *Agricultural Uses/Animal Keeping*
  - Chapter 6: *Commercial, Office and Industrial Zoning Districts*, Section 6: *Commercial, Office and Industrial Use Regulations*, Subsection C, Table 6.1 – *Use Matrix*
  - Chapter 7: *Setbacks and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C.9.d
  - Chapter 10: *Performance Standards*, Section 4: *Specific Use Regulations*, Subsections C and D
  - Chapter 14: *Accessory Structures*, Section 5: *General Provisions*, Subsection C9, Table 14.1, *Accessory Structure Types*

**City Council Subcommittee:** The code amendment proposal was presented to the Development & Planning City Council Subcommittee at their March 2<sup>nd</sup>, April 20<sup>th</sup>, July 20<sup>th</sup>, and September 21, 2020 meetings. At the various meetings, discussions included the proposed classification and defining of animals, concerns with keeping of certain animals, and the allowance of backyard chickens in the City (see more details below in Staff Review and Comment section). The Subcommittee was provided with research of what other Metro communities allow with respect to backyard chickens, as well as a list of staff concerns if they are allowed (see Attachment

A). Staff explained that this Ordinance amendment does not propose a change to what is currently allowed by code but does clarify one aspect intended with the current code (see 'Zoning District vs Lot Size' discussion below). Discussion ensued on whether to allow backyard chickens on smaller lots within the City. After much discussion, the Subcommittee decided that the matter of allowing chickens in all single-family zoning districts, regardless of lot size, should be presented to the full City Council for a decision.

**Previous Discussions:** Staff has found minutes indicating the request for allowance of backyard chickens has been brought up under Citizen Forum at City Council meetings in 2006, 2007, 2013, 2014, and 2020; and before the Development & Planning Subcommittee nine times since 2006. In 2014, per the direction of the Development & Planning Subcommittee, an ordinance amendment was presented to the Plan and Zoning Commission that would have increased the lot size to ten acres for the keeping of chickens and horses and capped the number of horses allowed at five and chickens to six. The Commission did not pass the ordinance as they felt the ten-acre requirement was too prohibitive. The matter was taken back to the Development and Planning Subcommittee. It was ultimately decided to leave city code the way it was then and still is today.

**Staff Review and Comment:** This request was distributed to other City departments and other agencies for their review and comment. Staff would summarize the following key points of interest:

- **Ordinance Amendment Intent:** This proposed Ordinance Amendment is being driven by a need for a better way to classify animals allowed to be kept on residential properties. Zoning code currently provides for the following categories within the land use matrices:
  1. Equestrian Uses (horse keeping)
  2. Animal, wild by nature
  3. Dogs and Cats
  4. Other household pets
  5. Agricultural production - livestock and other animal specialties; and,
  6. Apiary (bee and honey farm/beekeeping)

Numbers 1, 3 and 6 are self-explanatory. The definition in code for #5 clearly indicates that it is commercial production of either the animals themselves or animal products. #4 is not specifically defined and thus has some grey area but is generally interpreted and enforced to mean small animals such as birds, hamsters, reptiles, etc. that are kept inside the dwelling structure a vast majority of the time. To address these grey areas, clarification will be added to Title 5 to specify which animals are allowed and which are prohibited, both inside and outside. #2 is where the biggest problem rests to date. There is no definition for #2, 'animal, wild by nature' in code and appears to have been included in zoning as the catch-all for 'everything else' – by default, if an animal doesn't meet any of the other classifications, it is considered an animal, wild by nature. An interpretation that any animal that is not a dog, cat, horse, bee or household pet is an animal wild by nature has been problematic as what has been traditionally kept as a 'pet' has continued to expand and people's emotional connection with non-traditional animals comes into play. Staff is often challenged by the argument that an individual's potbelly pig, chickens ('but we don't eat the eggs'), pygmy goats, miniature horse, or 'insert name of animal here' are their 'pets' – they have names, they are a member of the family and they love them like their children and some are even thrown birthday parties, thus, they are not an 'animal, wild by nature'. To avoid continued individual debates on whether or not someone's animal qualifies as a pet, through this amendment, the zoning code proposes to only deal with animals from a use context – all other animals would be controlled under the Animal

Control portion of city code (Title 5, Chapter 3). To achieve this, two definitions that speak to the use of an animal are proposed:

- *AGRICULTURAL PRODUCTION ANIMALS, COMMERCIAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is raised to provide a service such as labor, breeding purposes with offspring sold or provided to another individual or business, or production of commodities such as, but not limited to meat, eggs, milk, fur, leather and wool primarily for sale to individuals or businesses not located within the property upon which the livestock animal(s) is raised, with little to no personal consumption or use. Roosters shall be considered agricultural production animals, commercial.*
- *AGRICULTURAL PRODUCTION ANIMALS, PERSONAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is housed or primarily live outside of the residence and raised for or can be raised for production of commodities such as, but not limited to meat, eggs, fur, milk, leather, and wool for personal consumption or use. Roosters are considered agricultural production animals, commercial.*

*(State Livestock Definition (Code of Iowa, Sec. 717.1): "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus; farm deer as defined in section 170.1; or poultry.)*

It should be noted, the 'Agricultural Production Animals, Personal' includes not only animals actively being raised for the reasons listed in the definition, but also that the animal could be used for the stated purposes. This was done to address situations such as raising quail, but not for the consumption of their eggs or chickens that are beyond production years.

These definitions will be added to Title 5 (Police Regulations) and Title 9 (Zoning) to allow for clarification within each Title. Agricultural Production Animals, Personal and Commercial will be placed in the land use matrices and bulleted items #2, 3 and 4 would be removed from the land use matrices.

- *Zoning District vs. Lot Size:* Current code allows 'animal, wild by nature' (includes backyard chickens) and 'agriculture production – livestock and animal specialties' in the Residential Estate (RE) zoning district with Board of Adjustment approval. Per regulations in city code, the smallest lots within the Residential Estate zoning district are to be 40,000sf, thus the intent was to allow backyard chickens only on large lots or acreages. However, post annexation, Residential Estate zoning was placed over some areas which include lots as small as the 13,000sf range at the request of the property owners to 'preserve the country atmosphere' or to prevent suburbanization with small residential lots. Staff noted to the Subcommittee that in lieu of stating a specific zoning district (RE), which may include lots non-conforming to the minimum size required, staff is proposing clarifying language to allow with BOA approval, 'Agricultural Production Animals, Personal' in all single family residential districts when the subject parcel is 40,000 square feet or greater in size. This approach restricts them from the smaller lots as intended by code through the designation of the RE zoning district while providing the benefit to property owners that have larger lots within zoning districts other than RE an opportunity to potentially gain BOA approval to have backyard chickens.

- *Backyard Chickens:* Several residents recently requested at a City Council meeting that chickens be allowed in all residential areas regardless of lot size. Staff also receives 8 to 15 calls each year inquiring whether chickens are allowed in single-family residential areas. And, as part of the Comprehensive Plan outreach, just as many people that indicated they wanted backyard chickens indicated that they did not feel they were appropriate in the 'city'. As noted in the 'Previous Discussions' section above, the matter has been discussed several times over the years at various City meetings.

Information on whether other Metro communities are allowing backyard chickens and under what performance standards is included as Attachment A. Additionally, staff from Animal Control and other departments identified the following concerns with allowing chickens on small residential lots:

- Staff time catching escaped animals
- Nuisances (subjective) such as odor, insects/parasites, encourage rodents (feed & straw) & predators, bedding disposal
- Neighbor complaints and conflict – neighbor's dog kills chickens
- What is done with when no longer producing eggs – animal shelter?
- Leads to requests for other typical wild or ag animals: goats, potbelly pigs, other fowl (ducks, pigeons, quail), miniature pony
- Lot size limits not equitable: minimum pen and separation from neighbor regulations will dictate some level of minimum lot size necessary
- Infections from Bird Flu Viruses – affects other animals and humans

Currently, the keeping of chickens for personal use requires Board of Adjustment (BOA) approval and is only allowed in the Open Space and Residential Estate zoning districts. Staff does not propose any changes to this other than the clarification of requirement for a minimum 40,000sf lot versus a specific zoning designation. Therefore, 'Agricultural Production Animals, Personal' would always require BOA approval and would only be considered for Open Space and Single-Family Residential zoned lots 40,000sf or greater in size. 'Agricultural Production Animals, Commercial' would be permitted by right in the Open Space District.

**If the City wishes to allow chickens on single-family lots smaller than 40,000sf, specific direction would need to be stated.** If the Plan and Zoning Commission desires this, their recommendation to the City Council will need to reflect this. It will be up to the City Council to direct staff to bring back an ordinance allowing such.

- *Authority over Title 5 (Police Regulations):* The Commission has been granted the power to provide recommendations to the City Council for amendments to Title 9, Zoning. The ordinance in its entirety has been provided to the Commission for context; however, the recommendation contained in the resolution will only apply to the changes to Title 9. The Commission does not have any authority over what is or is not included in the Animal Control section of City Code. The Commission can make suggestions for the Council to consider; however, the Council has ultimate authority over what is adopted as City Code.

**Comprehensive Plan Consistency:** The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

**Noticing Information:** On October 30, 2020, notice for the November 9, 2020, Plan and Zoning Commission and November 16, 2020, City Council Public Hearings on this project was published in the Des Moines Register Community Section.

**Staff Recommendation and Conditions of Approval:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the Plan and Zoning Commission adopt a resolution recommending the City Council approve the changes related to Title 9 within the Ordinance Amendment to modify regulations pertaining to animals, wild by nature.

**ATTACHMENTS:**

- Attachment A - Research material provided to Development & Planning Subcommittee
- Attachment B - Plan and Zoning Commission Resolution
- Exhibit A - Amended Recommendation
- Attachment C - Proposed Ordinance Amendment

TABLE 5.2 EQUESTRIAN USES

Land Uses	OS	RE	RS	R-1	SF-CR	SF-VJ	MH	RM	RH
Horse keeping, private, minimum 2 acres per horse required	P	P							
Animal special services except veterinary, horse only	Pc	Pc							
Amusement and recreation services, not elsewhere classified, horse shows, horse stables and commercial areas only	Pc	Pc							

TABLE 5.3 AGRICULTURAL USES/ANIMAL KEEPING

Land Uses	OS	RE	RS	R-1	SF-CR	SF-VJ	MH	RM	RH
Animal, wild by nature	Pc	Pc							
Dogs and cats	P	P	P	P	P	P	P	P	P
Other household pets	P	P	P	P	P	P	P	P	P
01 Agricultural production - crop production outdoors									
011 Cash grains	P	P	P	P	P	P	P	P	P
013 Field crops except cash grains	P								
016 Vegetables and melons									
017 Fruit and tree nuts									
019 General farms, primary crop production									
018 Horticultural specialties - other than cultivation of marijuana	P								
- Cultivation of marijuana with or without a license as a medical cannabidiol manufacturer									
01 Agricultural production - crop production under cover									
018 Horticultural specialties - other than cultivation of marijuana	P								
- Cultivation of marijuana as part of a licensed medical cannabidiol manufacturer									
- Must comply with the State's medical cannabidiol regulations									
- Cultivation of marijuana without a license as a medical cannabidiol manufacturer									
02 Agricultural production - livestock and animal specialties	P	Pc							
0279-9901 Apiary (bee and honey farm/ beekeeping)	P	P	P	P	P	P	P	P	P
5421 Fruit and vegetable markets	Pc	Pc							

- **AGRICULTURAL PRODUCTION ANIMALS, COMMERCIAL:** *Animals raised to provide a service such as labor, breeding purposes with offspring sold or provided to another individual or business, or production of commodities such as, but not limited to meat, eggs, milk, fur, leather and wool primarily for sale to individuals or businesses not located within the property upon which they are raised, with little to no personal consumption or use. Roosters shall be considered agricultural production animals, commercial.*
- **AGRICULTURAL PRODUCTION ANIMALS, PERSONAL:** *Animals that are housed or primarily live outside of the residence raised for production of commodities such as, but not limited to meat, eggs, fur, milk, leather, and wool for personal consumption or use. Roosters shall not be considered agricultural production animals, personal.*
- ‘Domesticated’ as a clarifier is not any clearer: Wikipedia includes a list of ‘domesticated animals’ that include dogs & cats ... goats, pigs, donkey, chicken, camel, duck, goose, pigeon, water buffalo, yak, llama ...
- Update definitions in Title 5 (Police Regulations, Chapter 3: Animal Control) and Title 9 (Zoning)
- Take ‘Dogs and Cats’ and ‘Other Pets’ out of Title 9 (they really are not ‘uses’) – put in Animal Control
- Remove ‘Animals Wild by Nature’
- Update land use matrix in Title 9 as follows:

Land Use	OS	RE	RS	R-1	SF-CR	SR-VJ	MH	RM	RH
01 Agricultural Production Crops	P	P	P	P	P	P	P	P	P
02 Agricultural production - livestock and animal specialties									
Agricultural Production Animals, Personal -- less than 40,000sf lot	P*	Pc							
Agricultural Production Animals, Personal -- lot size 40,000sf or greater	P*	P*	Pc	Pc	Pc	Pc	Pc	Pc	
Agricultural Production Animals, Commercial	Pc								
0272 Horses and other Equines -- minimum 2 acres per horse required	P*	Pc							
0279-9901 - Apiary (bee and honey farm/Beekeeping) -- no minimum lot size	P	P	P	P	P	P	P	P	P
* Livestock & Animal Specialties: Approval of a Permitted Conditional Use Permit shall be required for any property upon which any building housing the animals is located less than 100 feet (100') from a residential dwelling not on the same property as the animal(s).									



## Other City Comparisons

Iowa Top 20 by population	Chickens Allowed by Right	Chickens Allowed by Conditional Use Permit	Minimum Acres Allowed	Notes
Des Moines	Yes	N/A	All	7 stipulations on distance, feed control, number and species
Cedar Rapids	Yes	N/A	All	Up to 6 per tract with administrative permit
Davenport	Yes	N/A	All	Up to 6 chickens allowed with a permit.
Sioux City	Yes	N/A	All	4 hens with permit from animal control that is based on size of property and distance from neighbors.
Waterloo	No	Yes	1.5	Can get conditional use permit in Rural Residential zoning for 1.5 to 10 ac
Iowa City	Yes	N/A	All	
Council Bluffs	Yes	N/A	All	But, animals must be kept 150 from any adjacent dwelling unless neighbor gives written permission
Ames	Yes	N/A	All	
Dubuque	No	Yes	All	Max of 4. Only for eggs. 10 ft. from property line and 50 ft. from any dwelling
West Des Moines	No	Yes		
Ankeny	No	No	N/A	
Urbandale	No	No	N/A	Only allowed in A-1 (AG) 20 AC min and A-2 (RE) 10 AC min.
Coralville	No	No	N/A	Only allowed in AG
Altoona	No	No	N/A	
Clive	No	No	N/A	AG. Min 4 AC only 2 animals
Indianola	No	No	N/A	AG. Min 15 AC
Waukee	Yes	N/A	All	Up to 6 chickens with a yearly permit and completing an online training
Johnston	Yes	N/A	0.5	2 if over 1/2 AC
Grimes	No	No	N/A	
Pleasant Hill	No	Yes	All	
Bondurant	No	Yes	All	



## Discussion Item #2: Animals Wild by Nature Ordinance Update

### Previous definitions:

AGRICULTURAL PRODUCTION ANIMALS, COMMERCIAL: Animals raised to provide a service such as labor, breeding purposes with offspring sold or provided to another individual or business, or production of commodities such as, but not limited to meat, eggs, milk, fur, leather and wool primarily for sale to individuals or businesses not located within the property upon which they are raised, with little to no personal consumption or use. Roosters shall be considered agricultural production animals, commercial.

AGRICULTURAL PRODUCTION ANIMALS, PERSONAL: Animals that are housed or primarily live outside of the residence raised for production of commodities such as, but not limited to meat, eggs, fur, milk, leather, and wool for personal consumption or use. Roosters shall not be considered agricultural production animals, personal.

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### State Livestock Definition:

“Livestock” means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus; farm deer as defined in section 170.1; or poultry.

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### Proposed definitions:

AGRICULTURAL PRODUCTION ANIMALS, COMMERCIAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which **is raised to provide a service** such as labor, breeding purposes with offspring sold or provided to another individual or business, or production of commodities such as, but not limited to meat, eggs, milk, fur, leather and wool primarily for sale to individuals or businesses not located within the property upon which the livestock animal(s) are raised, with little to no personal consumption or use. Roosters shall be considered agricultural production animals, commercial.

AGRICULTURAL PRODUCTION ANIMALS, PERSONAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is housed or primarily live outside of the residence and **are raised for or can be raised for** production of commodities such as, but not limited to meat, eggs, fur, milk, leather, and wool for personal consumption or use. Roosters are considered agricultural production animals, commercial.

## Discussion Item #2: Animals Wild by Nature Ordinance Update

### Proposed definitions:

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	Clive	Windsor Heights	Urbandale	Des Moines	Waukee	Norwalk	Johnston	Ankeny	Indianola	Altoona	West Des Moines
Chickens Allowed?	Yes	Yes	No	Yes	Yes	Yes	Yes	No	No	No	Yes, Permitted in OS zoning and with a Pc in RE zoning
Minimum lot size?	1 1/2 acres	No	N/A	No	No	No	1/2 acre	N/A	N/A	N/A	40,000 sf
# of Chickens allowed	12	2	N/A	30	6	4	2	N/A	N/A	N/A	No limit
Roosters allowed?	Yes	Yes		Yes	No	No	Yes	No	No	No	Yes, Permitted in OS and with a Pc in RE
Permit fee	None	None	N/A	None	\$25/year	\$25/year	None	N/A	N/A	N/A	No fee for OS; For Pc: \$100 application fee + \$467.50 notification fee
Distance from neighbor dwelling	150'	25'	N/A	25'	25'	0'	0'	N/A	N/A	N/A	100'
Distance from applicant dwelling	150'	0'	N/A	25'	25'	0'	0'	N/A	N/A	N/A	0'
Distance from property line	50'	0'	N/A	0'	10'	As required for accessory structures	As required for accessory structures	N/A	N/A	N/A	As required for accessory structures
Education required	No	No	N/A	No	Yes	No	No	N/A	N/A	N/A	No
Other											

# Backyard Chicken Ordinance

Metro	Contact	Title	Info	Ordinance	Notes on Ordinance	Complaints/Notes
Adel	Steve Nichols	Code Compliance Officer	(515) 993-4525 or snichols@adellowa.org	yes		no
Alcoona				no		
Ankeny				no		
Bondurant				no		
Clive				Yes	allowed on properties 1.5 acres or larger so no residential properties in Clive.	no
					Small caged animals and fowl such as falcons, pigeons, pheasants, quail, chickens, ducks, geese, rabbits, ferrets and other small animals and fowl which are of such type and nature that state and national associations exist establishing norms for breeding, confining and rearing shall be allowed, provided that: (1) Cages, hutches, coops, cotes, lofts or other confinement shall be at least 25 feet away from any neighboring residence; such enclosures shall be of sufficient size to house the number of animals or fowl permitted by state or national standards. (2) The area is maintained free of odors, insects and rodents, and disturbing noises such as crowing, cackling and gobbling, causing no safety or health hazards to the general public or interfering with the enjoyment of life and property by any neighboring resident. (3) Animals and fowl included in this subsection shall be fed in the confines of their enclosures; all grains and food shall be stored in rodent-proof containers. (4) On any parcel of land less than an acre, such animals shall be limited to two species and 30 in total number, unless by state and national standards more are permitted....continue in attached ordinance	We do get complaints. Mostly on the location of the coop, being too close the lot line. We have a requirement that the fowl be 25 feet from the adjacent residence.  We allow up to 30 fowl on a lot. In my opinion this is too many and should be reduced to cut down on complaints.  We also allow roosters. There has been discussion on amending the ordinance to not allow them. I would say that is a good idea.
Des Moines	SuAnn Donovan	Neighborhood Inspection Administrator, Deputy Zoning Enforcement Officer	SMDonovan@dmgov.org, 515-283-4516	yes		
Grimes				no		
Johnston	David Wilwerding	Community Development Director			No non-domestic animals are allowed on a lot of less than 20,000 square feet. The number of non-domestic adult animals is limited to two in total number on any parcel greater than 20,000 square feet.	only one complaint in the past several years regarding loose chickens on one specific property, fence was repaired and no issues since
Norwalk	Tony Stravers	Building Official		yes	No more than four (4) chickens allowed per lot. <ul style="list-style-type: none"> <li>No person shall keep any rooster or slaughter any chickens.</li> <li>Chickens may only be allowed in R-1 zoning districts.</li> <li>No chickens may be kept without an approved enclosure that meets the standards of the zoning ordinance.</li> <li>The enclosure provides a minimum of 5 square feet per chicken and a minimum height of four feet.</li> <li>The enclosure shall be located inside a fenced area that provides a minimum of 10 square feet per chicken, excluding the square footage of the enclosure.</li> </ul> The fence shall have a minimum height of 6 feet. <ul style="list-style-type: none"> <li>The enclosure shall not be located closer than 25' to any principal structure on an adjacent lot.</li> <li>No chickens shall be allowed to run at large.</li> <li>No wire mesh (chicken wire) shall be allowed as a material for fencing around the enclosure.</li> </ul>	no complaints and only a few permits active each year. Don't allow roosters and did receive noise complaints in regards to that and worked with homeowner on removal

Waukeke	Paul Carpenter	Code Compliance Officer	pcarpenter@waukeke.org	yes	In November 2019, the Waukeke City Council approved a new Urban Chickens ordinance. The ordinance allows Waukeke residents living in R-1 and R-2 residential districts to house up to six female chickens (hens) for non-commercial use. Roosters are not allowed. Residents are asked to review the full ordinance and complete online training before applying for the required annual permit (\$25).	no
Iowa					So, prior to our ordinance change in 2014, we had a permit you could obtain from Planning that allowed you to keep up to four hens. The fee was \$200 if I remember right, which made it pretty cost prohibitive. So, we got rid of it and allowed keeping of hens as an accessory use, as you found (16-5-3-3: ACCESSORY USES if you need our code reference). That is our only reference to them, because we wanted to allow them. We require: a) if you build a coop, you comply with <del>the</del> rules you'd have to abide by for any other structure regarding setbacks, etc. b) you are in compliance with our nuisance ordinance regarding smell, cleanliness, etc. (same as any other animal), and c) the animal stays on your property (same as any other animal). We wanted to keep this as simple as possible, and not create rules just for chickens, basically. We had a few people voice support for the ordinance change, with no one speaking in opposition to it. Must have a permit, as said. Neighbor consent of adjacent properties. No more than 4 hens allowed. Roosters prohibited	left email
Dubuque	Cori Burbach		cburbach@cityofdubuque.org	Yes	The Urban Chicken Ordinance (Cedar Rapids Municipal Code Chapter 23A) makes provisions for keeping chickens within city limits, which means residents will be allowed to raise, harbor or keep hens on single family dwelling properties with a valid permit for one year. The annual permit fee will be \$25. Urban chicken permit applications are available at the Building Services Division, located at the City Services Center at 500 15th Avenue SW. All applicants will be required to provide notice to residents of all immediately adjacent dwellings of the applicant's intent to obtain a permit. In addition, all applicants will be required to complete an approved class hosted by the Indian Creek Nature Center about raising chickens in an urban setting. The ordinance restricts the number of chickens to six per tract of land regardless of how many dwelling units are on the tract. Only female chickens (hens) are allowed. All hens must be tagged at all times for identification purposes. These tags will be provided by the City of Cedar Rapids when the permit application is approved.	We field a handful of complaints a year regarding chickens, typically when someone isn't keeping them on their property or very occasionally when someone isn't keeping the coop clean and the smell travels to the neighbor's. Overall, it's been a non-issue and well-received.
Iowa City				yes		Did not contact due to Derecho
Cedar Rapids				Yes		
Nation						
Edina, MN	Tim Hunter	Community Compliance	952-826-0494	Yes	Residents can keep up to four hens per household, provided they are properly cared for and not allowed to wander off your property. No roosters are allowed due to noise concerns. Because there is little injury, health or safety risk in raising chickens, residents do not need to obtain a license, registration or permit. Up to 18 hen chicks may be raised for educational purposes.	No Complaints. No pushback when ordinance rolled out due to updating the ordinance to include beekeeping as well and that had more stipulations whereas the chickens just had one sentence where you can only have 4 hens and no need for a permit or anything.

# Staff Feedback

## Public Health & Safety

- Human Infections with Bird Flu Viruses
- In favor of mandating registration in order to follow up with complaint calls
- Concerns around subjective rules like smells, insects etc. that can cause neighborhood conflict
- Concerns limiting chickens to lot size due to economic access

## Code Compliance

- Lot size. 1+ acre with set backs from neighbors
- Current and future neighbors on all sides have to sign off on, and a permit is required with a fee.
- Limit to hens and no more than 6 at a time. No roosters
- No slaughter of said animals on property
- Direction on allowable materials for coops and fencing, no free range and no ground feeding
- More than one violation results in permit being revoked and chickens removed on 2nd violation.
- And enforcement of codes be conducted by Animal Control.

## Development & Planning

- Not in favor of small lots but if so have neighbors sign off
- In favor of permit process
- Prefers an 'Agridhood' development, planned development that allows chickens or a Community Barnyard similar to Community Gardens

Discussion Item #1: Allowance of Backyard Chickens

Proposed definition:

**AGRICULTURAL PRODUCTION ANIMALS, PERSONAL:** Any livestock animal as defined by Code of Iowa, Sec. 717.1, which is housed or primarily live outside of the residence and are raised for or can be raised for production of commodities such as, but not limited to meat, eggs, fur, milk, leather, and wool for personal consumption or use. Roosters are considered agricultural production animals, commercial.

WDM allows in Open Space and Residential Estate (typ. 40,000sf lots) zoned areas w/ BOA approval

Allow Backyard Chickens:

- Clive -- 60,000sf lot min
- Des Moines -- no minimum lot size
- Waukeg -- R-1 & R-2: 8,000sf lot min
- Norwalk -- R-1: 7,500sf lot min
- Johnston -- 20,000sf lot min
- Adel -- no min lot size
- Windsor Heights -- no min lot size

Do Not Allow:

- Urbandale
- Ankeny
- Indianola
- Altoona
- Bondurant
- Grimes



### Discussion Item #1: Allowance of Backyard Chickens

#### **Concerns:**

- Staff time catching escaped animals
- Nuisances (subjective) – odors, insects/parasites, encourage rodents (feed & straw) and predators, bedding disposal,
- Neighbor complaints and conflict – neighbor’s dog or cats kill
- Where go once no longer producing eggs – animal shelters?
- Lead to request for other typical wild or ag animals: sheep, goats, potbelly pigs, other fowl (ducks, pigeons, quail), miniature pony, cows
- Lot size limits not equitable: minimum pen & separation regs will dictate some level of minimum lot size necessary
- Infections from Bird Flu Viruses – affects other animals and humans: not easily spread amongst humans, however, (per WebMD source) H5N1 has killed 60% of the people who have been infected

#### ***IF were to allow:***

- Registration/annual permit process; leg bands on chickens; limit on # of violations – revoke permit & removal of animals
- Completion of educational class & Neighbor sign off
- Max 4 hens: NO roosters
- Not allowed to run at large -- approved enclosure within fenced area – min 5sf enclosure/per chicken: 10sf of fenced area/chicken – min 4’ fence height; located in rear yard a minimum 25’ from property boundary
- Egg production for personal consumption only: No slaughter on property; No commercial use
- Single-family and open space zoned districts only

RESOLUTION NO. PZC-20-077

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, IOWA, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE THE ORDINANCE AMENDMENT (AO-004869-2020) RELATED TO ANIMAL KEEPING**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, City staff has requested approval of an Ordinance Amendment to modify regulations pertaining to the keeping of animals; and

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference; and

**WHEREAS**, on November 9, 2020, this Commission held a duly-noticed hearing to consider the Animal Keeping Ordinance Amendment (AO-004869-2020).

**NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:**

SECTION 1. The findings, for approval, in the staff report, dated November 9, 2020, or as amended orally at the Plan and Zoning Commission hearing of November 9, 2020, are adopted.

SECTION 2. The amendments within Title 9 for the AMENDMENT TO ORDINANCE (AO-004869-2020) to modify regulations pertaining to the keeping of animals is recommended to the City Council for approval, as stated in the staff report or as amended in the attached as Exhibit A.

PASSED AND ADOPTED on November 9, 2020.

\_\_\_\_\_  
Erica Andersen, Chair  
Plan and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on November 9, 2020, by the following vote:

AYES:  
NAYS:  
ABSTENTIONS:  
ABSENT:

ATTEST:

\_\_\_\_\_  
Recording Secretary

Exhibit A: Amended Recommendation

Prepared by: B. Portz, West Des Moines Development Services, PO Box 65320, West Des Moines, IA 50265, 515-222-3620  
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, TITLE 5 (POLICE REGULATIONS), CHAPTER 3 (ANIMAL CONTROL), INCLUDING ARTICLE A (DOGS AND CATS), AND TITLE 9, (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS), CHAPTER 5 (AGRICULTURAL/OPEN SPACE AND RESIDENTIAL ZONING DISTRICTS), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICTS), CHAPTER 7 (SETBACKS AND BULK DENSITY REGULATIONS), CHAPTER 10, (PERFORMANCE STANDARDS), AND CHAPTER 14 (ACCESSORY STRUCTURES) PERTAINING TO THE KEEPING OF ANIMALS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

**Section 1. Amendment.** Title 5: *Police Regulations*, Chapter 3: *Animal Control*, Section 2: *Definitions* is hereby amended by inserting the italicized and bolded text accordingly in alphabetical order:

***AGRICULTURAL PRODUCTION ANIMALS, COMMERCIAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is raised to provide a service such as labor, breeding purposes with offspring sold or provided to another individual or business, or production of commodities such as, but not limited to meat, eggs, milk, fur, leather and wool primarily for sale to individuals or businesses not located within the property upon which the livestock animal(s) is raised, with little to no personal consumption or use. Roosters shall be considered agricultural production animals, commercial.***

***AGRICULTURAL PRODUCTION ANIMALS, PERSONAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is housed or primarily live outside of the residence and raised for or can be raised for production of commodities such as, but not limited to meat, eggs, fur, milk, leather, and wool for personal consumption or use. Roosters are considered agricultural production animals, commercial.***

**Section 2. Amendment.** Title 5: *Police Regulations*, Chapter 3: *Animal Control*, Article A: *Dogs and Cats*, Section 15: *Limited Number of Animals Allowed* is hereby amended by deleting the highlighted text with strikethrough lettering and adding the bold, italicized text:

***Except as otherwise allowed by Code, it shall be unlawful, except for a licensed kennel or pet shop, veterinary hospital, or animal grooming shop, for an owner to harbor, or house or confine on his premises more than four (4) cats or four (4) dogs, or a combination of four (4) such animals, over the age of six (6) months. Additionally, no more than a total of eight (8) animals, inclusive of the limitation on cats and dogs, shall be allowed, unless such animal is otherwise prohibited by this Code. This limitation shall not apply to limit the total number of aquatic or amphibious animals.***

**Section 3. Amendment.** Title 5: *Police Regulations*, Chapter 3: *Animal Control*, is hereby amended by inserting a new Section 19 as shown by the bold, italicized text and renumbering subsequent sections accordingly:

**5-3-19. KEEPING OF CERTAIN ANIMALS PROHIBITED.**

***A. Outside the Dwelling. It shall be unlawful for an owner to harbor, house or confine an animal, except a cat, dog or aquatic animal, outside the owner's dwelling, including but not limited to allowing an animal to defecate, roam, or exercise outside, unless otherwise allowed by this Code or except as otherwise required by law.***

***B. Agricultural Animals Prohibited. No person shall harbor, house or confine any agricultural production animal, commercial, agricultural production animal, personal, or any animal as defined by the Code of Iowa, Sec. 717.1, unless otherwise allowed by this Code or except as otherwise required by law.***

**Section 4. Amendment.** Title 9: *Zoning*, Chapter 2: *Zoning Rules and Definitions*, Section 2: *Definitions* is hereby amended by inserting the italicized and bolded text accordingly in alphabetical order:

***AGRICULTURAL PRODUCTION ANIMALS, COMMERCIAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is raised to provide a service such as labor, breeding purposes with offspring sold or provided to another individual or business, or production of commodities such as, but not limited to meat, eggs, milk, fur, leather and wool primarily for sale to individuals or businesses not located within the property upon which the livestock animal(s) is raised, with little to no personal consumption or use. Roosters shall be considered agricultural production animals, commercial.***

***AGRICULTURAL PRODUCTION ANIMALS, PERSONAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is housed or primarily lives outside of the residence and raised for or can be raised for production of commodities such as, but not limited to meat, eggs, fur, milk, leather, and wool for personal consumption or use. Roosters are considered agricultural production animals, commercial.***

**Section 5. Amendment.** Title 9: Zoning, Chapter 5: Agricultural/Open Space and Residential Zoning Districts, Section 8: Open Space/Agricultural and Residential Use Regulations, Subsection C Use Matrices, Table 5.2: Equestrian Uses is hereby amended by deleting in its entirety and renumbering subsequent tables accordingly.

Land Uses	OS	RE	RS	R-1	SF- CR	SF- VJ	MH	RM	RH
Horse keeping, private, minimum 2 acres per horse required	P	P							
0752 Animal special services except veterinary, horse only	Pc	Pc							
7999 Amusement and recreation services, not elsewhere classified, horse shows, horse stables and commercial areas only	Pc	Pc							

**Section 6. Amendment.** Title 9: Zoning, Chapter 5: Agricultural/Open Space and Residential Zoning Districts, Section 8: Open Space/Agricultural and Residential Use Regulations, Subsection C Use Matrices, Table 5.3: Agricultural Uses/Animal Keeping is hereby amended by deleting the highlighted text, inserting the italicized and bolded text and renumbering subsequent tables accordingly. All other items in the current code adopted table but not reflected below shall remain in the table.

Land Uses	OS	RE	RS	R-1	SF- CR	SF- VJ	MH	RM	RH
Animal, wild by nature	<del>Pc</del>	<del>Pc</del>							
Dogs and cats	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>
Other Household Pets	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>
01 Agricultural production - crops	P	P	P	P	P	P	P	P	P
02 Agricultural production - livestock and animal specialties	<del>P</del>	<del>Pc</del>							
- <b>Agricultural Production Animals,</b>									

<b>Personal – less than 40,000 square foot lot size</b>									
<b>- Agricultural Production Animals, Personal – lot size of 40,000 square foot or greater</b>	<b>Pc</b>	<b>Pc</b>	<b>Pc</b>	<b>Pc</b>	<b>Pc</b>	<b>Pc</b>	<b>Pc</b>		
<b>- Agricultural Production Animals, Commercial</b>	<b>Pc</b>								
<b>0272 Horses and Other Equines – A minimum lot size of two (2) acres is required and a minimum of two (2) acres per horse is required</b>	<b>P<sup>1</sup></b>	<b>Pc</b>							
<b>0279-9901 – Apiary (bee and honey farm/Beekeeping) (no minimum lot size) See 9-10-4.19 for specific regulations related to beekeeping.</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>		
<b>0752 - Animal special services except veterinary, horse only</b>	<b>Pc</b>	<b>Pc</b>							
<b>7999 - Amusement and recreation services, not elsewhere classified, horse shows, horse stables and commercial areas only</b>	<b>Pc</b>	<b>Pc</b>							

**Notes:**

- 1. Livestock & Animal Specialties: Approval of a Permitted Conditional Use Permit shall be required for any property upon which any building housing the**

**animal(s) is located less than 100 feet from a residential dwelling not on the same property as the animal(s).**

**Section 7. Amendment.** Title 9: Zoning, Chapter 6: Commercial, Office and Industrial Zoning Districts, Section 6: Commercial, Office and Industrial Use Regulations, Subsection C, Table 6.1 – Use Matrix is hereby amended by inserting the italicized and bolded text. All other items in the current code adopted table but not reflected below shall remain in the table.  
*(Note to codifier: superscript "1" is italic and bolded.)*

SIC CODES	RC	CMC	NC	CVC	SC	VJ-C	VJ-HB	WR	BP	VJ-LI	LI	GI	OF	PCP	OS
02 Agricultural production - livestock and animal specialties, <b><i>including Animal Production, Commercial</i></b>															
0211 Beef cattle feedlots															
0212 Beef cattle, except feedlots															<b><i>P<sup>1</sup></i></b>
0213 Hogs - hog farms, except feedlots															<b><i>P<sup>1</sup></i></b>
- Hog feedlots															
0214 Sheep and goats															<b><i>P<sup>1</sup></i></b>
0219 General livestock, except dairy and poultry															<b><i>P<sup>1</sup></i></b>
024 Dairy farms															<b><i>P<sup>1</sup></i></b>
025 Poultry and eggs															<b><i>P<sup>1</sup></i></b>
027 Animal specialty															<b><i>P<sup>1</sup></i></b>
029 General farms primarily															<b><i>P<sup>1</sup></i></b>



**Notes:**

- 1. Livestock & Animal Specialties: Approval of a Permitted Conditional Use Permit shall be required for any property upon which any building housing the animal(s) is located less than 100 feet from a residential dwelling not on the same property as the animal(s).**

**Section 8. Amendment.** Title 9: *Zoning*, Chapter 7: *Setbacks and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C.9: *Bulk Regulations, Minimum Setbacks and Building Separations for Accessory Buildings and Structures in Residential Districts*, Subsection "d" is hereby amended by deleting the highlighted text with strikethrough lettering and re-lettering subsequent accordingly.

- ~~d. See section 9-10-4, "Specific Use Regulations", of this title for additional separation requirements for accessory structures that will house animals.~~

**Section 9. Amendment.** Title 9: *Zoning*, Chapter 10: *Performance Standards*, Section 4: *Specific Use Regulations*, Subsections C and D are hereby deleted in their entirety and re-lettering as required:

~~C. The Following Standards Shall Apply To Uses Within The Agricultural/Open Space District:~~

- ~~1. Separation From Residential Structures: Any accessory structure that will house farm animals, animals wild by nature or a kennel shall be located no closer than one hundred feet (100') from an existing residential dwelling on a lot not under the same ownership.~~
- ~~2. Disposal Of Offal And Manure: There shall be no disposal of offal or manure, other than the regular removal thereof, within five hundred feet (500') of any adjacent residentially zoned property.~~
- ~~3. Storage And Disposal Of Chemicals And Hazardous Waste: All chemicals and hazardous waste shall be stored and disposed of as shown on the product label or regulated by the applicable County, State and Federal regulations.~~

~~D. The Following Standards Shall Apply To Uses Within The Low Density Residential District:~~

- ~~1. Keeping Of Horses: The keeping of horses shall be allowed, provided the use shall comply with the following:
  - ~~a. Minimum of two (2) acres per horse shall be required.~~
  - ~~b. Any accessory structure that will house farm animals, animals wild by nature or a kennel shall be located no less than one hundred feet (100') from an existing residential dwelling on a lot not under the same ownership.~~~~
- ~~2. Separation From Residential Structures: Any accessory structure that will house farm animals, animals wild by nature or a kennel, as permitted in this district, shall not be located closer than one hundred feet (100') from an existing residential dwelling on a lot not under the same ownership.~~
- ~~3. Disposal Of Offal And Manure: There shall be no disposal of offal or manure, other than the regular removal thereof, within seven hundred fifty feet (750') of any adjacent residentially zoned property.~~

- ~~4. Storage And Disposal Of Chemicals And Hazardous Waste: All chemicals and hazardous waste shall be stored and disposed of as shown on the product label or regulated by the applicable County, State and Federal regulations.~~
- ~~5. Keeping Of Domestic Animals: The keeping of domestic animals and birds normally raised as a hobby and maintained in outdoor enclosures, such as pigeons, rabbits, etc., shall be permitted provided that the enclosure is located no less than fifty feet (50') from the property line and shall be screened from the view from the public right of way and the surrounding properties.~~

**Section 10. Amendment.** Title 9: Zoning, Chapter 14: Accessory Structures, Section 5: General Provisions, Subsection B: Types, Table 14.1: Accessory Structure Types, is hereby amended by deleting the highlighted text with strikethrough lettering and inserting the italicized and bolded text.

Structures or buildings for animal keeping	<del>See section 9-10-4 of this title for specific use regulations related to structures housing animals</del> See <b><i>'Notes' with 9-5-8.C Table 5.2 and 9-6-6.C Table 6.1</i></b>
	See section <u>9-14-6</u> of this chapter for accessory building regulations <b><i>pertaining to dog runs, dog pens and housing</i></b>

**Section 11. Repealer.** All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

**Section 12. Savings Clause.** If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**Section 13. Violations and Penalties.** Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Title 1, Chapter 4, Section 1 of the City Code of the City of West Des Moines, Iowa.

**Section 14. Other Remedies.** In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

**Section 15. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the \_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T Jacobson, City Clerk

The foregoing Ordinance No. \_\_\_\_\_ was adopted by the Council for the City of West Des Moines, Iowa, on \_\_\_\_\_, 2020, and was published in the Des Moines Register on \_\_\_\_\_, 2020.

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Ryan T. Jacobson, City Clerk