

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROANOKE
COUNTY, VIRGINIA, HELD AT THE ROANOKE COUNTY ADMINISTRATION
CENTER ON TUESDAY, AUGUST 28, 2012

**ORDINANCE 082812-7 AMENDING CHAPTER 5 “ANIMALS AND
FOWL” AND SECTIONS 30-29 AND 30-88-2 OF THE ROANOKE
COUNTY CODE TO PROVIDE FOR DEFINITIONS AND TO ESTABLISH
STANDARDS FOR RESIDENTIAL CHICKEN KEEPING**

WHEREAS, the Roanoke County Planning Commission held a public hearing on
this matter on August 7, 2012; and

WHEREAS, the first reading of this ordinance was held on August 14, 2012, and
the second reading and public hearing was held on August 28, 2012; and

WHEREAS, public necessity, convenience, general welfare and good zoning
practice are valid public purposes for such recommendations by the Planning
Commission and action by the Board of Supervisors; and,

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Roanoke
County, Virginia, as follows:

1. That the Roanoke County Code be amended to read and provide as
follows:

Chapter 5. Animals and Fowl.

Article I. In General.

Sec. 5-2. Lot boundary lines constitute fences as to livestock and poultry;
permitting livestock and poultry to run at large.

(a) The boundary line of each lot or tract of land in the county is hereby
constituted a lawful fence as to any livestock and poultry domesticated by man, **except
as otherwise provided in Sec. 5-38. Residential Chicken Keeping.**

(b) It shall be unlawful and a Class 4 misdemeanor for the owner or any
person in charge or control of any livestock and poultry domesticated by man to permit
the same to run at large beyond the boundaries of his own land.

(c) In addition to any penalty imposed for a violation of any provisions of Section 5-2, 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.

Article II. Dogs, Cats and Other Animals.

Sec. 5-21. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them by this section, unless otherwise indicated to the contrary:

Adequate care or care: The responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

Adequate exercise or exercise: The opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

Adequate feed: Access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

Adequate shelter: Provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors:

- (1) Permit the animals' feet to pass through the openings;
- (2) Sag under the animals' weight; or

(3) Otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

Adequate space: Sufficient space to allow each animal to:

(1) Easily stand, sit, lie, turn-about, and make all other normal body movements in a comfortable, normal position for the animal; and

(2) Interact safely with other animals in the enclosure.

When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three (3) times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

Adequate water: Provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every twelve (12) hours, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

Animal nuisance: Is created when any companion animal, dog, cat or other domestic animal unreasonably annoys humans, endangers the life or health of other animals or persons or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. Such acts of nuisance shall include, but are not limited to, the following:

(1) Damages property other than that of the animal's owner;

(2) Attacks or disturbs other animals, persons or vehicles by chasing, barking or biting;

(3) Makes excessive noises including, but not limited to, barking, whining, howling, caterwauling or crying;

- (4) Creates noxious or offensive odors;
- (5) Defecates upon any public place or upon premises not owned or controlled by the owner unless promptly removed by the animal's owner; or
- (6) Creates an unsanitary condition or insect breeding site due to an accumulation of excreta or filth.

Capon: A neutered male chicken.

Cat: Any member of the animal species felis catus.

Chicken: A domestic fowl, *Gallus domesticus*.

Chicken Enclosure: A fenced or wire area, in addition to a coop, that provides chickens with a predator-resistant, outside space.

Coop: A building or enclosed structure that houses chickens and provides shelter from the elements and from predators.

Companion animal: Any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

Dangerous dog: A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat or killed a companion animal that is a dog or cat; however, when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous:

- (1) If no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite;
- (2) Both animals are owned by the same person;
- (3) If such attack occurs on the property of the owner or custodian of the attacking or biting dog; or
- (4) For other good cause as determined by the court.

No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

Dog: Every dog or canine, canine crossbreed or hybrid canine, regardless of age.

Domestic animal: Any dog, cat, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits and other birds and animals raised and maintained in confinement.

Hen: A female chicken.

Hybrid canine: Any animal or its offspring which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf or coyote by its owner to a licensed veterinarian, law-enforcement officer, animal warden, humane investigator, official of the department of health, or compliance officer who is under the direction of the state veterinarian.

Kennel: An enclosure or structure used to house, shelter, restrain, exercise, board, breed, handle or otherwise keep or care for more than three (3) dogs four (4) months of age or older, from which they cannot escape. The enclosure or structure shall not mean a dwelling or a fence used to demarcate a property line. For purposes of this Chapter and the license tax, the term "kennel" shall also include "multiple dog permit."

Livestock: Cattle, horses, sheep, goats, swine and enclosed, domesticated rabbits or hares.

Other officer: All persons employed by the county or elected by the people of the county whose duty it is to preserve the peace, to make arrests or to enforce the law.

Owner: Any person having a right of property in a companion animal, dog or cat, and any person who keeps or harbors a companion animal, dog or cat or has the companion animal, dog or cat in his care or who acts as its custodian, and any person who permits a companion animal, dog or cat to remain on or about any premises occupied by him.

Poultry: All domestic fowl and game birds raised in captivity.

Rooster: A male chicken usually kept for breeding.

To run at large: A domestic or feral dog, exotic or poisonous animal or exotic bird or poultry shall be deemed to run at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.

Vicious dog: A canine or canine crossbreed that has:

- (1) Killed a person;
- (2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or
- (3) Continued to exhibit the behavior that resulted in a previous finding by a court or on or before July 1, 2006, by an animal control officer as authorized by local ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

Sec. 5-38. – Standards for Residential Chicken Keeping.

The keeping of up to six (6) female chickens (hens) shall be permitted in non-agriculturally zoned areas of the county subject to the following standards:

- (1) The principal use of the property is a single-family dwelling.
- (2) The owner of the chickens must reside on the property on which the chickens are kept.
- (3) Chickens shall be kept within a predator-resistant coop or chicken enclosure at all times and shall not be permitted to run at large.
- (4) Coops and chicken enclosures shall be setback at least ten (10) feet from side and rear property lines and at least thirty-five (35) feet from any residential dwelling on an adjacent lot. Coops and chicken enclosures shall also be located behind the front building line of the principal structure.
- (5) Coops shall provide at least two (2) square feet of interior space per chicken and chicken enclosures shall provide at least ten (10) square feet of exterior space per chicken with a maximum total area of 150 square feet for both the coop and chicken enclosure. Neither the coop nor chicken enclosure shall exceed ten (10) feet in height.
- (6) Coops and chicken enclosures shall be well-ventilated and kept in a clean, dry and sanitary condition at all times.
- (7) Provision shall be made for the storage and removal of chicken waste (manure). Such waste shall not create a nuisance or health hazard to adjoining property owners.
- (8) All chicken feed or other material intended for consumption by chickens shall be kept in containers impenetrable by rodents, insects or predators.

(9) The keeping of roosters, capons, and crowing hens is prohibited.

(10) The outdoor slaughtering of chickens is prohibited.

Zoning Ordinance

Sec. 30-29. – Use Types; Generally.

Agriculture: The use of land for the production of food and fiber, including farming, dairying, pasturage, agriculture, horticulture, viticulture, and animal and poultry husbandry. A garden and residential chicken keeping, accessory to a residence, shall not be considered agriculture.

Residential Chicken Keeping: The keeping of up to six (6) female chickens (hens) in non-agriculturally zoned areas as an accessory use to a single family residence subject to the standards set out in Chapter 5. Animals and Fowl, Sec. 5-38. – Standards for Residential Chicken Keeping.

Sec. 30-88-2. – Accessory Uses: Residential Use Types.

(A) Residential use types may include the following accessory uses, activities or structures on the same site or lot:

10. Residential Chicken Keeping including coops and chicken enclosures provided that:

(a) Coops and chicken enclosures shall be setback at least ten (10) feet from side and rear property lines and at least thirty-five (35) feet from any residential dwelling on an adjacent lot. Coops and chicken enclosures shall also be located behind the front building line of the principal structure.

(b) Coops shall provide at least two (2) square feet of interior space per chicken and chicken enclosures shall provide at least ten (10) square feet of exterior space per chicken with a maximum total area of 150 square feet for both the coop and chicken enclosure. Neither the coop nor chicken enclosure shall exceed ten (10) feet in height.

(c) A zoning permit has been obtained by the owner of the chickens.

2. That this ordinance shall be in full force and effect from and after its adoption.

On motion of Supervisor Church to adopt the ordinance, with a request to refer

back to the Planning Commission to consider an amendment increasing the number of chickens permitted based on larger lot sizes and carried by the following roll call and recorded vote:

AYES: Supervisors Moore, Altizer, Church, Elswick, Flora

NAYS: None

A COPY TESTE:



Deborah C. Jacks
Clerk to the Board of Supervisors

cc: Arnold Covey, Director of Community Development
Tarek Moneir, Deputy Director of Development
Philip Thompson, Deputy Director of Planning
Paul M. Mahoney, County Attorney