

# CITIZENS' COMMENTS

Do your comments refer to an item on today's agenda?  NO  YES

Item #: \_\_\_\_\_ CONSENT:  NO  YES

The Board of County Commissioners welcomes your comments. Your presentation will be limited to two (2) minutes. If appropriate, the matter(s) you present will be placed on a future commission agenda.

It is requested that you complete this form and return it to the receptionist prior to the beginning of the Citizens' Comments portion of the agenda.

Name: ROBERT KILSON  
Address: 4903 4TH AVE. SW, NW BRADENTON  
Phone: (Home) 941.567.5952 (Work) 941.232.3090

Brief description of problem or concern:

I'm expressing my support for Commissioners' consideration and approval for backyard chickens in residential zoned areas. It was reported in Bradenton Herald article on Friday, Nov. 18th.

## Urban Henfare A Model Approach to Keeping Chickens Within Residential Areas

Article Date: Friday, March 25, 2011

Written By: Joan Michelle Blazich

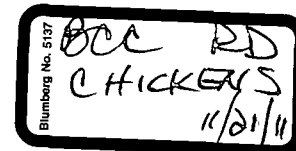
Over the past decade in North Carolina many municipalities have witnessed a growing public interest in raising chickens within urban areas. This emerging practice, which coincides with the growing popularity of the "local food movement," has sparked fierce debate amongst city and town councils, homeowners associations, and individual residents. See Jesse James Deonto, "Chicken Raisers Can Run Afoul of Zoning," News & Observer, July 17, 2007. Common concerns on this subject include issues on zoning, animal noise and nuisance, and whether poultry can be defined as livestock or pets. Community responses have ranged from continuing a ban on chickens, as seen in Cary, Garner, and Holly Springs, to minimally structured ordinances, as witnessed by Raleigh and Wake Forest. The most comprehensive approach to urban poultry keeping belongs to Durham. By creating a series of specific ordinances and procedures that provide clear guidance to residents interested in keeping chickens, Durham has instituted a sound "pro-chicken" policy that protects the welfare of both birds and homeowners. Durham's allowance of chickens stands as a model approach which specifically addresses small flock chicken keeping in accordance with the changing attitudes and needs of its residents.

Although until recently banned within residential areas, chickens were formally added to Durham's list of permitted animals in 2009. See Matt Saldana, "Durham Says Yes to Backyard Chickens," Indep. Wkly., February 19, 2009. Durham's City Council voted 7-0 on Feb. 19, 2009 to amend their Unified Development Ordinance ("UDO") to permit chickens within city limits. Under Durham's chicken-specific ordinance Section 3-23 City residents must apply for a permit, pay a yearly fee to the city, and are limited to keeping a maximum of ten hens, with no roosters. Homeowners must apply for a Limited Agriculture Permit, Section 5.4.12, which allows for on-site enforcement and ensures that chicken owners are aware of the applicable standards.

In addition to the permit homeowners must also provide their neighbors with consent forms that reference the Limited Agriculture Permit statutes. Property owners seeking to keep an urban flock must comply with Plot Plan Requirements as established by the newly amended UDO. These requirements provide information on zoning, structure, and spacing requirements for both pens and coops. The UDO also incorporates elements of animal welfare regarding housing, as regulations specify minimum floor space and lighting per bird in coops, while pens require significant ground space and fencing. Supplemental forms provide information on approved construction materials for pens and coops, including appropriate wire spacing that will adequately protect the birds from predators.

Perhaps the most important concept underlying Durham's new chicken ordinance is its specific treatment of chickens as a separate category of animal. This means that homeowners, city inspectors, and animal control officers have clear guidelines on how to approach and handle personal flocks. Such specific regulations help to eliminate uncertainty regarding what are, or are not, acceptable methods of animal husbandry for chickens. The problem of vagueness can be seen in Raleigh's ordinances regarding chickens. Raleigh officially allowed urban chicken keeping in 2004 by expanding its definition of domesticated animals in Section 12-3001 to include chickens. By subtly shifting the animal's status from being a "traditional farm animal" to a pet, chickens became permissible because they could be handled under the city's animal ordinances for pets. This change in definition is problematic, however, as Raleigh currently offers no other ordinances directed towards chickens. This can create significant issues of nuisance, sanitation, and animal welfare because homeowners and animal control officers alike may lack appropriate knowledge and guidance to deal with complaints or problematic situations. Such a lack of consistency in dealing with home flocks can result in an abuse of both chickens and homeowners' rights. No recorded cases have yet occurred in Raleigh over urban chicken keeping, perhaps because such issues have been resolved by animal control officers, homeowners associations, or neighborhood discussions. The absence of clear regulations, however, still poses a significant risk for allowing misunderstandings that create neighborhood strife and endanger the welfare of home flocks. See Suzanne Nelson, "Urban Chickens - Backyard Eggs and Fun," Indep. Wkly., Oct. 31, 2007; Allisa Irei, "Controversial Urban Chickens Still Roost Around Chicago," Medill, March 9, 2010.

One example of why Durham's specific regulations for chickens are a better way to regulate urban flocks can be seen with chicken coops. Although both cities have ordinances preventing chickens from running loose,



uncertainty one may have about what constitutes adequately-sized housing. It also protects the rights of neighbors by providing clear minimum set-backs for chicken housing, ensuring that chicken enclosures will not infringe on neighboring properties. This stands in sharp contrast to Raleigh, where a homeowner is left to guess as to whether their chicken pen must meet size and/or zoning requirements for dog kennels or a freestanding building on their property, or if it is not subject to zoning requirements at all under Sections 12-3036, 10-2144. A particularly notable aspect of Durham's Plot Plan Requirement form is the City Council's offer of help to homeowners- a homeowner who wishes keep chickens, but is unable to obtain a copy of their plot plan, may contact the Planning Department to receive a scaled copy of their plot plan for use in the application process.

Further issues arise when chickens are subjected to ordinances directed towards dogs because chickens, unlike dogs or cats, require very different health and sanitation practices. These practices include using flooring that keeps the birds' feet dry, providing ample room to prevent cannibalism (a condition brought on by stress caused by overcrowding), and periodic treatment for parasites. See N.C. Coop. Extension Serv., "Keeping Garden Chickens in North Carolina," 2008. Although Raleigh requires proof of annual veterinarian visits for dogs and cats, no such requirements are given for chickens, leaving home flock owners confused as to whether their birds are subject to any health regulations. Durham, by requiring that homeowners renew their chicken permits on a yearly basis, partially addresses these issues. Although the Limited Agriculture Permit stops short of requiring yearly health inspections, it does enable the City to monitor home flocks in the event that a health or sanitation problem occurs, and gives animal control officers a standardized way to approach complaints about sanitation.

Protecting the rights of neighbors is yet another major reason why Durham's ordinance on chickens is exemplary. Other area municipalities, like Raleigh, do not require a homeowner to notify their neighbors regarding their intent to keep chickens. This can, and does, create conflicts between property owners, as well as with HOAs. Durham, in contrast, requires formal notice of consent from all neighbors surrounding the property where the chickens are to be kept. Although it can be argued that requiring formal consent constricts the rights of homeowners to do as they wish with their property, it gives all parties who might be affected by chickens an opportunity to state their concerns. Any neighbor who objects to living near chickens can request a hearing by the City Council on the subject, giving all interested parties the opportunity to discuss their concerns at length in a constructive manner. This allowance for formal discussion and education is intended to help balance conflicting issues through attempting to reach an agreeable settlement in the process. Durham's consent forms also help to educate homeowners about what they can expect of having chickens in their neighborhood by including copies of the Limited Agriculture Permit's text and accompanying forms.

Although Durham has taken the lead in providing clearly structured regulations for urban chicken keeping, homeowners must still be aware that their neighborhood's restrictive covenants can prevent them from keeping chickens. Numerous HOAs have banned chickens within their specific neighborhoods, despite the larger community's allowance of them. This has led to significant tension between homeowners who wish to keep chickens and their neighbors. The town of Holly Springs recently witnessed such tensions at a town council meeting, after a resident whose homeowner's association enforced their ban on chickens on them petitioned the council to reconsider permitting chickens. After a contentious council hearing, both the council and the homeowner's association ruled in favor on continuing a ban on chickens. See Ted Richardson, "Pets or Poultry?," Cary News, March 30, 2010. Similar issues have been raised not only across North Carolina but across the United States, as the courts have ruled that a homeowner's ability to raise chickens is subservient to their neighborhood's restrictive covenants. See Buck Hills Falls Co. v. Press, 791 A.2d 392 (Penn. 2002). This gap between municipal and neighborhood views of chickens is regrettable, although it is to be hoped that success of well-planned "pro-chicken" ordinances, like that of Durham, may convince homeowner's associations to revise their positions to better serve the needs and considerations of their residents.

Urban chicken keeping offers both enjoyment and challenges to local municipalities and their residents. Although a number of North Carolina communities permit chickens, the most outstanding approach to the issue can be seen in Durham's new chicken-specific ordinance. By instituting a statutory policy that addresses major issues of chicken keeping, such as housing, spacing, noise, and sanitation, Durham has created a series

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Joan Blazich is a first-year law student at the University of North Carolina School of Law. She may be reached at [jblazich@email.unc.edu](mailto:jblazich@email.unc.edu).

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