

Meeting Minutes

City Council Work Session

September 19, 2022 | 4:30 p.m.
Council Chambers Conference Room
88 E. Chicago St., Chandler, AZ



Call to Order

The meeting was called to order by Mayor Kevin Hartke at 4:30 p.m.

Roll Call

Council Attendance

Mayor Kevin Hartke
Vice Mayor Terry Roe
Councilmember OD Harris
Councilmember Mark Stewart
Councilmember René Lopez
Councilmember Christine Ellis
Councilmember Matt Orlando

Appointee Attendance

Josh Wright, City Manager
Kelly Schwab, City Attorney
Dana DeLong, City Clerk

Staff in Attendance

Tadd Wille, Assistant City Manager
Dawn Lang, Deputy City Manager / CFO
Andy Bass, Deputy City Manager
Kevin Mayo, Planning Administrator
David de la Torre, Planning Manager
Dawn Gingerich, Assistant City Attorney
Leah Powell, Neighborhood Resources Director
Lauren Schumann, Principal Planner
Thomas Allen, Assistant City Attorney
Ryan Peters, Strategic Initiatives Director
Guy Jacques, Neighborhood Services Supervisor
Derek Horn, Development Services Director
Stephanie Romero, Public Information Officer
Matt Burdick, Communications and Public Affairs Director

Discussion

1. Presentation and Discussion on Backyard Chickens in Residential Areas

MAYOR HARTKE called for a staff presentation.

JOSHUA WRIGHT, City Manager, introduced the discussion item and said it was discussed earlier this year, where council asked many questions. The last several months have been spent to gather information to answer previous questions and obtain direction on next steps in the process.

LAUREN SCHUMANN presented the following presentation.

Backyard Chickens City Council Work Session | September 19, 2022

- Topics
 - Background
 - Potential Issues
 - January 2022 Work Session
 - Other municipalities' regulations
 - Possible Code Amendments
- Background
 - Ag-1 (43,000 sq ft) & SF-33 (33,000 sq ft) residential lots permit chickens
 - Unlimited amount
 - No roosters are permitted in any district
 - Required fence enclosure; no closer than 100 ft. to front property line

COUNCILMEMBER LOPEZ asked if roosters are allowed in both Chandler zoning codes that currently allow chickens.

MS. SCHUMANN said the city code prohibits roosters within the City of Chandler. County island residences may have roosters.

MS. SCHUMANN continued the presentation.

- Homeowner's Associations
 - HOA's can prohibit raising, breeding, or keeping chickens
 - Residents living in HOA's must comply with their CC&R's
 - 71.5% of neighborhoods within an HOA
- Background
 - Resident initiated Code Amendment 2013
 - Planning & Zoning Commission recommended approval 4-2
 - City Council Denied 4-3; concerns cited included ability and timelines of enforcement

COUNCILMEMBER STEWART asked what the violation would be under the proposed code amendment.

MS. SCHUMANN said that the violation based on the proposed code amendment would be five hens with no roosters for any property with single family zoning. Council was having issues with code enforcement processing code violations in a timely matter. We have since updated our code.

COUNCILMEMBER STEWART asked if the reason for denial was, we could not process code enforcement violation quickly enough.

MS. SCHUMANN said that was correct.

MS. SCHUMANN continued the presentation.

- Backyard Chickens
 - Pros
 - Healthy eggs
 - Free pest control
 - Chicken droppings: excellent garden fertilizer
 - Connection to nature / sustainability
 - Educate children in the family
 - Therapy for special needs residents
 - Cons
 - Noise
 - Odor
 - Health
 - Trespassing / roaming
 - Building safety
 - Enforcement
- January Work Session
 - Valley Wide Chicken Complaints
 - Notification of adjacent neighbors & potential Backyard Chicken Permit
 - How to Enforce? Code Enforcement vs Police Department
- Surrounding Municipal Regulations
- Surrounding Municipal Regulations

COUNCILMEMBER ORLANDO asked if there is data showing how many coops are present in each city. How many chickens do people have? Councilmember Orlando asked if there is a permit process to know how many people have coops in their yard in other cities.

MS. SCHUMANN said that the information on the number of coops was not available at this time.

GUY JACQUES, Neighborhood Services Supervisor, said he did not know the underlying permitting process in other cities.

COUNCILMEMBER ORLANDO asked if this information could be found, so that the complaints could be compared to the total number of chicken owners. Councilmember Orlando asked what the average lot size is in Chandler, a 15-foot setback might limit the coop placement.

MS. SCHUMANN said that question would be addressed later in the presentation.

MAYOR HARTKE said perhaps we cannot determine the total number of people who own chickens but asked if we could find out how many repeat complaints about the same owner there is. It may be difficult to determine the true number of people who own chickens.

MS. SCHUMANN said most of the complaint research was done in February after the work session. Some municipalities were missing reports. In the last few months, they were able to obtain a detailed report from the City of Phoenix, and information from the City of Scottsdale.

MAYOR HARTKE added that 2021 was in the middle of COVID, so more people may have been home and potentially owning chickens, but also more people may have been home to complain. There may be a difference in this year in complaints due to these factors.

MR. JACQUES replied that in prior years there was an increase in complaints. In 2022, there were five established code violations, four unfounded cases, and one case remaining active.

MAYOR HARTKE asked in Chandler, if these numbers are higher in the current year.

MR. JACQUES answered that we get an average of four complaints a month, which is a high estimate. As of this year, there has only been 9 complaints so far.

MAYOR HARTKE summed up that this year so far, we have only had nine complaints. These numbers in 2021 are potentially higher than what we're seeing which may or not be the case with other cities.

MR. JACQUES said that was correct.

COUNCILMEMBER HARRIS asked for information on the average lot size in Chandler and the average lot size with new buildings and new developments.

MS. SCHUMANN said North Chandler, non-HOA properties were zoned SF7 or SF8.5 an average of 8,000 – 8,500 sq. ft. lots. There have been some subdivisions go through, larger lots in South Chandler around 10,000 sq. ft. There has been a movement to have smaller patio homes built in the 1980s. The average lot size is around 8,500 sq. ft.

MAYOR HARTKE asked if it is fair to say that new housing developments are HOA neighborhoods. South Chandler is rare to have traditional neighborhoods. HOA can approve or disprove chickens on their own but would not automatically happen with a vote of their boards and residents.

MS. SCHUMANN added that $\frac{3}{4}$ of residents must vote on amending CC&Rs. They have a hard time meeting quorum to get the votes to pass.

MAYOR HARTKE clarified that it was $\frac{3}{4}$ of all residents, not just $\frac{3}{4}$ of those present.

COUNCILMEMBER LOPEZ asked if in CC&Rs, HOA's pre-emptively had added a no chickens clause.

MS. SCHUMANN said that she had asked a new developer about their CC&Rs, and the topic of chickens was included.

COUNCILMEMBER ORLANDO said there are several areas where traditional neighborhoods abut an HOA neighborhood. This could be introducing an issue where HOA residents and traditional neighborhood residents have differing rules on chickens.

MS. SCHUMANN said this scenario could happen.

MS. SCHUMANN continued the presentation.

- Surrounding Municipal Complaints

COUNCILMEMBER LOPEZ said most complaints are unfounded. Possibly because the property may be in compliance, or due to different zoning or neighborhood types. The number of complaints seems low considering the size of the population, and even less are founded complaints.

MS. SCHUMANN said we are currently at nine complaints in the year 2022. The year 2021 had 37 complaints total.

COUNCILMEMBER STEWART asked if this overwhelmed the code enforcement group.

MR. JACQUES said these complaints did not overwhelm the code enforcement group.

COUNCILMEMBER ELLIS says this shows the proportion of where people can own chickens in their backyards, mostly in the north side in the city. There are more HOA neighborhoods in those areas. There is some problem with code enforcement in those neighborhoods. She asked if this passed and included chickens, how would we ensure that these complaints are taken care of.

MR. JACQUES said the current process is if there is a complaint, we do an investigation, to the property and determine if a violation exists. Our response time is within two days of a complaint.

The code inspector verifies what they see and contacts the resident on the property. If they say yes or if they are visible, then a violation exists. At some point, you must determine if a violation exists and cannot leave a case open if the violation is unable to be determined.

COUNCILMEMBER ELLIS said if a violation is unfounded, then neighbors may be at odds. How do we manage the situation once a case is closed.

MR. JACQUES said that is correct, we cannot take someone to court if there is no evidence that a violation exists. Ultimately it becomes a civil matter and recommend remediation. We do our due diligence to determine a violation.

COUNCILMEMBER LOPEZ added that this only shows HOAs. There may be additional areas where having chickens is limited.

VICE MAYOR ROE mentioned the number of violations per city. What about other types of animal complaints in code enforcement. These do not result in citations in most cases.

MR. JACQUES said that there has yet to have a case go beyond a notice to comply, none have gone to a civil case. There has been voluntary compliance. Other animal complaints are uncommon. The same rules apply, an investigation is conducted, and then follow up appropriately.

VICE MAYOR ROE asked about dog complaints.

MR. JACQUES said police handle dog complaints. Noise complaints fall under the disturbing the peace ordinance which is enforced by the police.

VICE MAYOR ROE asked about the number of dog noise complaints.

MR. JACQUES said he did not have that information.

MAYOR HARTKE asked if there is a map where people can currently have chickens in Chandler.

MS. SCHUMANN said staff would follow up.

COUNCILMEMBER HARRIS mentioned that there is the sentiment that this is about the capacity of code enforcement. Adding chickens would add to the workflow of code enforcement.

MR. JACQUES said that this has been discussed, and code enforcement does have the capacity to enforce chicken complaints. Current workloads would not be dramatically affected whether this goes into effect.

COUNCILMEMBER ELLIS asked if it was correct that there are enough people for code enforcement, but the work is just not being done.

MR. JACQUES said sometimes it is impossible to determine if a violation exists in a case. Either way, inspectors investigate and if there is a problem area or case, they can review it.

MR. WRIGHT asked about metrics used to gauge effectiveness of response in code enforcement.

MR. JACQUES said there are performance goals to measure inspectors. The expectation is that inspectors investigate within a two-day window. Minimum of 50% of code case workload is proactive, meaning inspector initiated. When we go out to inspect, they are focused on surrounding properties, not just one case at a time. They observe their assigned areas to determine any violations that exist in their neighborhoods.

COUNCILMEMBER ELLIS confirmed that code inspectors are proactive in their actions. Early intervention is prevention.

MR. JACQUES said there is a goal of case duration of no more than 30 days. Another metric is 80% of cases end in voluntary compliance. There are few of cases that go to civil courts. The goal is to remove barriers to compliance and provide help.

COUNCILMEMBER HARRIS asked for feedback on code enforcement afterhours and during weekends.

MR. JACQUES responded that most inspectors are on a 4-10 schedule, working 6:30 – 5:00 p.m. There are some complaints that come in at specific times of the day, such as lighting issues. They can schedule inspections at night or on weekends to work around these barriers.

LEAH POWELL, Neighborhood Resources Director, said there was 56,805 inspections last fiscal year. Code enforcement is kicking off a pilot program with special data collection on Saturdays to analyze if this is a good use of time. Weekends are when people are repairing violations, they have already received notice of. The challenge is potentially serving someone a notice when they are already in the process of remedying the issue. Code inspectors will absolutely work on an issue at night or on the weekend to do what needs to be done.

COUNCILMEMBER HARRIS asked about the pilot program on the weekend work. Most residents work during the weekday and must then work on things on the weekend. How long will the pilot program last and what data is being looked at.

MS. POWELL said this has been discussed but is still a new idea. We want to make sure we have a good window for data collection then assess as we go along. This involves personnel and

scheduling which needs to be worked out. Code enforcement is short staffed and needs to be fully staffed first.

COUNCILMEMBER HARRIS asked to follow up with information about the pilot program in the future.

MAYOR HARTKE said that with the mention of not wanting to burden police with taking care of chickens, chickens usually lay eggs and cluck in the morning. Police would not be engaged with this issue.

COUNCILMEMBER LOPEZ said code enforcement is not an emergency so police would not be engaged.

MS. POWELL confirmed that that was correct. Previous Saturday schedules proved to be unneeded, but they are reassessing this need.

COUNCILMEMBER LOPEZ reviewed that there were 56,805 complaints and nine of them were chicken related. Councilmember Lopez asked if half of these cases were then called in.

MR. JACQUES answered that the 56,805 number is about total code inspections. The 50% is proactive cases.

COUNCILMEMBER LOPEZ said that the other half then would be from called in complaints, with only nine being chicken related is a small number out of the overall cases.

COUNCILMEMBER ORLANDO compared the number of complaints to the population of the city with to the number of specific complaints. If few people owned chickens, then a small number of complaints would be significant. Establishing a baseline would be a good basis of comparison.

MS. POWELL said that this number is just inspections overall. Some cases require multiple inspections, and it is not based on each complaint.

MR. JACQUES said the number may be inflated.

COUNCILMEMBER ORLANDO reaffirmed the baseline is not established.

MS. SCHUMANN said there were just over 100 properties in Chandler that have chickens.

MAYOR HARTKE said that there are many instances of neighborhoods that have chickens without being counted and are not reported. It may not be a representative estimate.

MS. SCHUMANN continued the presentation.

- Requiring Signatures of Neighbors
 - Benefits
 - Consent from adjacent neighbor
 - Constraints
 - Currently don't require signatures for other uses in backyards
 - Property Owner vs Renter
 - Possible hold out of one neighbor
 - New neighbor did not agree to original permit, do the chickens then become a violation?
 - Verification of neighbor's signatures
- Backyard Chicken Permit
 - Free, no expiration date, and online application
 - Benefits
 - Resident acknowledges requirements
 - Database of properties with permit
 - Residents may be more willing to allow inspections
 - Constraints
 - 4th Amendment prohibits unreasonable search
 - Doesn't speed up the process
 - Permit does not solve enforcement issues

COUNCILMEMBER ORLANDO asked what would make the permit revokable.

KELLY SCHWAB, City Attorney, said revoking the permit would depend on the standards set. Whatever we put in the code would be the grounds, and due process would be followed.

COUNCILMEMBER ORLANDO asked if it would be quantitative and asked for more details.

MS. SCHWAB said code has digression. To have a permit of anything, you must meet the requirements of the code. The first goal is voluntary compliance. Any regulatory permit license can be revoked is there if there is not compliance.

COUNCILMEMBER HARRIS asked to learn more about the process.

MR. JACQUES continued the presentation.

- Enforcement Challenges
 - Distinguishing roosters from hens
 - Ability to verify number of chickens
 - Identifying owner of "free roaming" chickens
 - Currently average 4 complaints per month

VICE MAYOR ROE asked how many code violations actually end up in a citation being issued.

MR. JACQUES said 100% voluntary compliance was reached.

VICE MAYOR ROE clarified that this was for all code violations not just chickens.

MR. JACQUES said that less than 20% of code violations end up in a civil citation. There is around an 80% rate of voluntary compliance in all cases.

COUNCILMEMBER LOPEZ mentioned that feral chickens is a current issue, regardless of code violation. These are existing challenges.

MR. JACQUES continued the presentation.

- Enforcement 2013 vs 2022
 - Property Maintenance Code updated in 2020
 - Streamlined citation process 30-9(F)
 - Animal Waste 30-20(H)
 - Enhanced Field Capabilities
 - GoGov – new case management system
 - Computers & printers in all code vehicles
- Code Enforcement Process
 - Complaint received or proactive case initiated
 - 10-day Notice to Comply issued
 - 7-day Final Notice issued
 - Court civil citation issued; initial court appearance is 30-45 days later depending on service
 - Attempt personal service
 - Attempt service by certified mail
 - Service by posting at the property
 - Criminal cases referral: 45-60 days

COUNCILMEMBER HARRIS asked about a scenario where a person owning chickens does not have the resources to deal with a code enforcement issue.

MR. JACQUES answered that Code Enforcement works with individuals with financial issues with the Neighborhood Programs staff to get assistance for these cases. We look at all avenues to help someone that needs it, physical limitations, financial issues. There has been no experience of limitations with this with chickens. We would collaborate with City staff in this situation to help accordingly.

MS. SCHUMANN continued the presentation.

- Possible Code Amendments
 - If City Council wants to proceed, staff recommends the following: Chapter 14 Animals

- Chickens permitted all single-family lots
- Maximum 5 hens, no roosters
- Chicken coop / enclosure required within rear yard meeting 5-foot setback from all property lines; no trespassing upon other properties or street
- Possible Code Amendments
 - Establish building setback of five (5) feet for coops / enclosures from all property lines in lieu of minimum lot sizes

COUNCILMEMBER STEWART asked where the five-foot setback requirement originated.

MS. SCHUMANN answered that the five-foot setback was found in other cities' requirements.

COUNCILMEMBER STEWART said there is no data why, it is just what is done in other places.

COUNCILMEMBER ORLANDO added that the chicken coop can be closer to the neighbor's wall than to one's own house. The neighbor would be protected with a greater setback.

MS. SCHUMANN added this would be abiding by property setbacks.

COUNCILMEMBER ORLANDO asked what the current property setbacks are.

MS. SCHUMANN said the current property setbacks are around 10 to 15 feet.

COUNCILMEMBER ORLANDO said with an increased setback requirement the coop would be required to be closer to the owner of the chickens than to the neighbor's wall. The neighbor should have more distance from the chickens.

MAYOR HARTKE said the houses with small yards, regardless of the minimum set, they would be excluded from keeping chickens due to the requirements.

MS. SCHUMANN said that is possible. The example in the slide is a zero-lot line. There are possibilities to work around the setback requirements.

MAYOR HARTKE said if that was Council's decision, it could eliminate some small lots from being eligible to keep chickens.

MS. SCHUMANN continued the presentation.

- Possible Code Amendments
 - Chapter 14 Animals
 - Identify enforcement by code violation
 - Change violation from misdemeanor to civil citation

- Repeal Section 14-3 requiring written consent from neighbors within 200-feet to keep animals
- Establish Backyard Chicken Permit
- Possible Code Amendments
 - Chapter 35 Zoning Code
 - Add *Chicken Coop* to definitions & classify as type of structure permitted
 - Coops exceeding 120 sq. ft. and/or 7 ft. in height require building permit & classified as Accessory Structure
 - All coops connected to utilities (water, electricity) require permit regardless of size
 - Add *Chickens permitted as referenced in Chapter 14* for single-family zoned properties
- Possible Code Amendments
 - Chapter 30 Property Maintenance Code
 - Add 30-20(N) to reference changes of chapter 24 & 35
 - Amend 30-6(C) to change “*against any person*” to “*any owner, occupant, or person*”
- Public Outreach
 - Public Feedback on City's website
 - 23 responses total
 - 22 in favor of chickens; 1 opposed
 - 13 out of 23 residents from traditional subdivision; no HOA
 - Other opposition:
 - Two phone calls
 - One email
 - Articles written in local valley newspapers

MAYOR HARTKE asked what the window for submissions to the city webform on the website is.

MS. SCHUMANN said that the webform has been open for about three months.

MS. SCHUMANN continued the presentation.

- Next steps if moving forward
 - September 2022
 - Advertise within local newspaper & City's website
 - October 2022
 - Planning and Zoning Commission
 - November 2022
 - City Council Introduction of Ordinance
 - December 2022
 - City Council Final Adoption
- Discussion & Questions
 - Proceed with City Code Amendment?
 - Require Backyard Chicken Permit?
 - Require signatures from adjacent neighbors?

- Direction from City Council any other related items

COUNCILMEMBER HARRIS requested additional information about the code enforcement weekend work pilot program, the code enforcement and Law department collaboration before moving forward.

MAYOR HARTKE asked for direction from Council on introducing a city code amendment.

COUNCILMEMBER ELLIS said it is important to emphasize that this issue has been discussed numerous times. Councilmember Ellis was in favor of continuing with the code amendment.

COUNCILMEMBER ORLANDO asked about the public feedback received in terms of HOA versus traditional neighborhood.

MS. SCHUMANN said 13 out of 23 responses did not live in an HOA neighborhood.

COUNCILMEMBER ORLANDO said he is uncomfortable, due to the open meeting law, with giving direction in the work session.

MS. SCHWAB said this is just Council direction for now. The vote will come later. There is work to be done before now and introducing an ordinance.

COUNCILMEMBER ORLANDO did not give direction.

VICE MAYOR ROE said yes to this direction.

COUNCILMEMBER STEWART said yes to this direction.

MAYOR HARTKE said yes to direct staff to proceed with drafting a city code amendment.

MAYOR HARTKE asked for direction regarding the requirement of a backyard chicken permit.

COUNCILMEMBER LOPEZ reiterated that this is not a decision to pass an ordinance, this is to give direction to staff to move forward and see what a code amendment would look like. Councilmember Lopez said yes to introducing a city code amendment and to a backyard chicken permit.

COUNCILMEMBER HARRIS said we are moving forward without answers. He requested more information to address his concerns.

MAYOR HARTKE clarified that this will not be voted on until November, with more time to learn about the amendment before a decision is made.

COUNCILMEMBER HARRIS requested more information. Councilmember Harris said no to this direction and other direction on this topic.

COUNCILMEMBER ORLANDO requested to move forward with a potential one-year permit process. Councilmember Orlando requested more of a setback from neighboring property.

COUNCILMEMBER ELLIS asked for more information.

MAYOR HARTKE asked if this direction needs to be made at this session.

MS. SCHWAB asked for an answer on direction at this session.

VICE MAYOR ROE said yes with direction to city code amendment, and no to direction on backyard chicken permit, signatures from neighbors, and any related items.

COUNCILMEMBER STEWART said yes with direction to city code amendment, and no to direction on backyard chicken permit. Councilmember Stewart introduced the idea that the number of chickens could be dependent on the size of the lot.

Council direction was to move forward with proceeding with drafting a city code amendment, and not to move forward with backyard chicken permit, and a signature requirement.

Adjourn

The meeting was adjourned at 5:59 p.m.

ATTEST: _____
City Clerk

Mayor

Approval Date of Minutes: October 24, 2022

Certification

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of the City Council of Chandler, Arizona, held on the 19th day of September 2022. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this _____ day of October, 2022.

City Clerk