

**ADMIN MEETING - CITY OF ROELAND PARK**  
**4600 W. 51<sup>ST</sup> Street, Roeland Park, KS 66205**  
**Monday, June 28, 2010**  
**6:00 P.M.**

1. CALL TO ORDER
2. OLD BUSINESS
  - a. 27D Ballot Process
  - b. City Ordinances regarding the keeping of fowl discussion. Note: ***city staff bring model ordinances to continue this discussion***( See attachment "***Changing Your City's Chicken Laws***" pg 5-12)
  - c. TIGER Grant Updates – Debra M.
  - d. Roeland Park Community Center discussion
  - e. Chapter 5, Article 3 Massage Therapy Ordinance- (See Merriam's Ordinance attachment)
3. New Business:
  - a. Direction for 2010 \$5000.00 donation to SIM Foundation – See attached Endowment language approved at the 6-24-10 meeting.
  - b. Prioritize the codes that need updating discussion.
4. Future Meeting Discussion:
  - a. Solid Waste Disposal– Pay as you Throw – Effective 1-1-2012
  - b. RFP for development at the old pool site
  - c. Social Media (Ethics Ordinance ) amendments ( Invite City Attorney)
  - d. Clarify competitive bidding processes ( Invite City Attorney )
5. Adjourn

# Chickens for Montgomery

June 2009



**“Montgomery, never having prohibited chicken-keeping, is one of an elite class of communities leading the way in promoting sustainable living. Let’s not change our ordinances now to prohibit chickens at the same time the rest of the nation is doing the opposite.”**

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## Table of Contents

<b>Introduction .....</b>	<b>3</b>
<b>Montgomery Currently Has Chickens With No Problems .....</b>	<b>3</b>
<b>Laws in Nearby Suburbs .....</b>	<b>4</b>
<b>Chickens and the History of Suburban Development.....</b>	<b>5</b>
<b>Why Were Chickens Prohibited by Earlier Lawmakers? .....</b>	<b>5</b>
<b>What About Homeowners' Association Agreements? .....</b>	<b>5</b>
<b>Chickens For Montgomery's Proposed Ordinance .....</b>	<b>5</b>
<b>Backyard Chickens Are Not Farm Animals .....</b>	<b>6</b>
<b>Backyard Coops are Attractive and Clean .....</b>	<b>6</b>
<b>Chickens Are Not a Nuisance.....</b>	<b>7</b>
<b>Chickens Are Not Smelly.....</b>	<b>7</b>
<b>Chickens are Not Messy .....</b>	<b>7</b>
<b>Chickens Are Not Noisy .....</b>	<b>7</b>
<b>Chickens Do Not Annoy the Neighbors .....</b>	<b>7</b>
<b>Chickens Do Not Attract Predators to the Area .....</b>	<b>8</b>
<b>Many Residential Communities Allow Chickens Without Causing A Nuisance .....</b>	<b>8</b>
<b>Chickens Do Not Pose a Public Health Risk.....</b>	<b>8</b>
<b>Chickens and the Environment.....</b>	<b>9</b>
<b>Water Quality and Runoff.....</b>	<b>9</b>
<b>Greenhouse Gas Emissions.....</b>	<b>9</b>
<b>Living Sustainably .....</b>	<b>9</b>
<b>Chickens and Property Values .....</b>	<b>10</b>
<b>Lot Size Doesn't Matter .....</b>	<b>10</b>
<b>Chickens Are Educational .....</b>	<b>11</b>
<b>Chickens and Emergency Preparedness .....</b>	<b>11</b>
<b>Chickens and the Economic Crisis.....</b>	<b>11</b>
<b>Code Enforcement and Burdens on Government .....</b>	<b>11</b>
<b>The Urban/Suburban Chicken Movement .....</b>	<b>12</b>
<b>Appendices.....</b>	<b>13</b>
<b>Appendix A: Chicken Ordinances in Neighboring Communities .....</b>	<b>13</b>
<b>Appendix B: Backyard Coops.....</b>	<b>15</b>
<b>Appendix C: <i>The New Coop de Ville</i> (Newsweek 11/17/08).....</b>	<b>17</b>
<b>Appendix D: Greenhouse Gas Emissions.....</b>	<b>21</b>
<b>Appendix E: Letters of Support .....</b>	<b>23</b>
<b>Appendix F: Property Values by Chicken Ordinance Type.....</b>	<b>25</b>
<b>Appendix G: History of Prohibitions on Chicken-Keeping.....</b>	<b>26</b>
<b>Appendix H: Successful Chicken Keeping in Montgomery in 2009.....</b>	<b>27</b>

## Introduction

In the post-WWII decades, many urban and suburban communities around the country instituted laws intended to distance us from our then-unfashionable rural roots. It was a time when neighborhoods were built without sidewalks, “ChemLawn” seemed like a great name for a business, and keeping chickens in the backyard served as an uncomfortable reminder of the fact Grandma used to slaughter a hen on the back porch every Sunday morning. Suburbanites seeded their lots with grass, installed lawn sprinklers, sprayed and sprayed and sprayed, and passed laws prohibiting chickens in urban and suburban backyards.

In recent years, many of us have started to realize that maintaining a close connection to our food is a positive, not a negative, and is a part of living a more sustainable lifestyle. Farmers’ Markets are experiencing a revival, people are gardening more, and communities around the nation are changing decades-old laws forbidding the keeping of chickens.

It should come as no surprise to any longtime resident of Cincinnati that many suburbs here in the commonsense capital of the world never prohibited chickens at all. In fact, like Montgomery currently does, most of our neighbors permit chickens. Most allow them on any size lot. And here in Montgomery and in many of the suburbs most similar to us such as Wyoming and Madeira, people are indeed keeping chickens without causing problems for their neighbors, their community, or their property values.

There are so many reasons to find a way to continue to allow rather than prohibit chickens in the suburbs. Montgomery’s proposed “Ordinance Prohibiting Farm Animals Within The City” (Farm Animals Ordinance) in effect prohibits them altogether, including those already present – and causing no problems -- here in Montgomery.

## Montgomery Currently Has Chickens With No Problems

There are currently chickens in Montgomery. The Mirza/O’Keefe household on Schoolhouse Lane, just a few hundred feet from City Hall, has four laying hens (Appendix H). The city has received no complaints about these family pets,

The chickens are popular among the family’s neighbors. When one recently expressed an interest in raising chickens herself, Cati O’Keefe decided she’d better check into the legalities before giving any advice. It costs quite a bit in both money and time to get started, and while she’d been willing to risk it herself based on her own perusal of online ordinances, she didn’t want to take that risk for anyone else.

Her inquiry sparked this new ordinance. The police, far from having received any complaints, were unaware there were chickens being kept in Montgomery. CFM has since learned of another household in a neighborhood not far from City Hall keeping chickens. They prefer to remain under the radar, though, as they and their

neighbors are very attached to their hens. There are likely other families quietly making the same decision right now. The Farm Animals Ordinance will outlaw the Mirza/O'Keefe chickens and drive other chicken-keeping households underground.

## Laws in Nearby Suburbs

Appendix A lists other communities here in Cincinnati which allow chickens, restrict them, or essentially prohibit them. The list of those allowing them includes Madeira and Wyoming, both of which have growing communities of chicken-keepers and both of which have had no problems associated with their chicken-keeping residents, according to city employees. Both require only that chickens be contained, not create odors or unsanitary conditions, and not be kept for strictly commercial purposes. Neither community is contemplating changing their ordinances regarding chicken-keeping, which closely parallel Montgomery's current ordinances.

Glendale, Milford, and Terrace Park also have essentially the same ordinance that Montgomery currently has: Chickens must be contained and must not create a nuisance or annoyance. Indian Hill relies on the Hamilton Co ordinances. Loveland only wants chickens not to create a nuisance. Sharonville specifies lots sizes of 20,000sf or larger and that chickens be kept 50 feet from the property line. Mason and Springdale require large lots: chickens must be kept 100 feet from the property lines, which essentially prohibit chickens.

Only a few neighboring communities limit chickens in such a manner as to essentially prohibit them within their boundaries. Most of our neighboring communities forbid *problems that might arise with chicken keeping*, rather than forbidding chickens themselves. And this has paid off for residents – those communities that allow chickens tend to have on average the highest property values (Appendix F.)

Current ordinances in Montgomery already provide sufficient protection to residents from possible problems with chicken-keeping. These ordinances include 90.04(B), which requires animals to be confined, 93.03, which forbids offensive animal odors, 93.04, which requires property be maintained, and 132.14, which limits noise between the hours of 10pm and 7am. (Of note: typical hens are closed up in their coops between 8 and 9pm during summer months -- earlier in winter -- and do not emerge until midmorning to ensure they lay their eggs in their nesting boxes before being released into their run for the day. While closed up in their coops, hens sleep and are silent.)

## **Chickens and the History of Suburban Development**

### **Why Were Chickens Prohibited by Earlier Lawmakers?**

The birth of the modern suburb was a time when many of us were seeking to define ourselves as sophisticated and more like those in the cosmopolitan city than like those in unfashionable rural small towns and farming communities. The car was a symbol of that cosmopolitan lifestyle, so we eliminated sidewalks – why, after all, would anyone walk who could afford to drive? The sidewalk became a symbol of poverty and backwardness. Later generations regretted that decision and many have retrofitted sidewalks and streetlights in their neighborhoods.

The keeping of chickens and other food-producing animals was also unfashionable during the decades immediately following World War II, and for similar reasons. The problem wasn't one of chickens creating a nuisance; it was one of wanting to seem modern, cosmopolitan, and sophisticated. (Appendix G)

### **What About Homeowners' Association Agreements?**

Just as suburban communities sought to increase the desirability of their area by prohibiting unfashionable food-producing animals, developers sought to increase the relative desirability and exclusivity of their subdivisions within their communities by drawing up agreements under which the residents of these subdivisions would live. The first such agreements specified what kinds of fences and outbuildings could be erected and where on a property; by the 90s some were including prohibitions of everything from vegetable gardens to basketball hoops.

The suburban ideal is a dynamic concept; as more people become interested in living a greener lifestyle in the suburbs, the idea of what is 'ideal' evolves to reflect the community's values. What seemed important in 1964 may seem counterproductive to achieving the 'ideal' suburban lifestyle in 2009.

Many residents of subdivisions with HOAs drawn up years ago may find that some of the rules are ones they'd like to change. Fortunately, most of these agreements can be changed if the current residents wish to make such changes. In addition, many residents of Montgomery do not live under any kind of HOA Agreement.

In either of these cases, the city and/or police are not called upon to enforce HOA agreements; enforcement is handled under civil law. And no matter what the most restrictive of these covenants require, Montgomery has no governmental need to reflect the requirements of even the least restrictive of such agreements.

## **Chickens For Montgomery's Proposed Ordinance**

We propose that chickens be removed from the Farm Animals Ordinance.

If the city feels chicken-keeping needs to be controlled more than is already adequately addressed by current ordinances (90.04(B), which requires animals to

be confined, 93.03, which forbids offensive animal odors, 93.04, which requires property be maintained, and 132.14, which limits noise between the hours of 10pm and 7am), we propose that an ordinance pertaining only to chickens be created.

Chickens For Montgomery proposes the following (CFM's Proposed Ordinance):

1. Single family homes within the City of Montgomery shall be permitted to keep laying hens for household egg gathering.
2. Roosters are prohibited.
3. Chickens and their enclosures must be at least 15 feet from property lines and not visible from the street.
4. Enclosures must be attractive and well-maintained.
5. Chickens and their enclosures must be kept in a neat, clean and sanitary condition free from offensive odors, excessive noise, or any other condition that would constitute a nuisance.

## **Backyard Chickens Are Not Farm Animals**

For thousands of years, chickens, like dogs and cats, have lived alongside people in backyards large and small in cities and small towns. Unlike a half-ton bull or 400-pound hog, a six-pound hen is not inherently a farm animal.

The typical laying hen starts to produce at four to six months, lays nearly daily until she is 6, and then lives another two years. A crucial point is that for backyard chickens (unlike their counterparts on farms), the end of productivity does not bring on the end of life. Commercial chickens are bred to produce large numbers of eggs very quickly and then to be culled and used for such things as animal food and fertilizer. Suburban hens, however, are treated as individuals. They are typically named, and when around age 6 they stop producing eggs, they are 'retired' and treated as pets for the remaining year or two of their lives.

Chickens are friendly, social, intelligent, affectionate, entertaining, low-maintenance, small, quiet, and inexpensive to keep. They are quieter and cleaner than most dogs. They uniquely offer suburban and city-dwelling children the opportunity to understand a little more clearly where their food comes from. And they offer all of us the opportunity to produce a little of our own food.

## **Backyard Coops are Attractive and Clean**

Unlike large commercial poultry operations or rural farms, people in cities and suburbs who keep chickens in their backyards tend to keep them in attractive, well-maintained enclosures and treat their chickens as pets. Backyard coops are no more of an inherent eyesore than a trampoline, play structure, or hot tub, and in fact many are portable so that the chickens are never in one place long. Appendix B contains examples of backyard coops on suburban and city lots.

CFM's Proposed Ordinance requires that coops be attractive, well-maintained, clean, sanitary, and free of odor or other conditions that would cause a nuisance.

## **Chickens Are Not a Nuisance**

### **Chickens Are Not Smelly**

Chickens themselves do not smell. Any possible odor would come from their droppings, but 5 hens generate less manure than one medium-sized dog. The average chicken keeper is also a gardener, and (unlike the feces of dogs and cats, which carry pathogens and can't be composted) chicken droppings represent an excellent source of free organic fertilizer when composted. Unsanitary conditions can result in a buildup of ammonia in large-scale operations, which is why commercial poultry facilities often smell. This is not the case for small backyard flocks.

CFM's Proposed Ordinance requires that chickens and enclosures be maintained in a sanitary condition free from offensive odors.

### **Chickens are Not Messy**

Chicken enclosures used in city and urban settings tend to be attractive and are easily maintained. Small flocks are managed with a minimum of time and energy on the part of their owners.

CFM's Proposed Ordinance requires that enclosures be attractive and well-maintained.

### **Chickens Are Not Noisy**

Hens are quiet birds. It's only roosters that are known for loud morning crowing, and roosters are not necessary for the production of eggs. The occasional clucking of hens is generally not audible beyond 25 feet. Some hens give a few squawks while actually laying an egg or bragging about it afterward, but this noise is very short-lived and much quieter than barking dogs, lawn mowers, leaf blowers, passing trucks, children playing, and other common neighborhood sounds.

CFM's Proposed Ordinance requires that chickens be maintained in a manner free from excessive noise and that chickens and enclosures be kept 15 feet from the property lines, a distance at which most normal chicken noises are barely audible.

### **Chickens Do Not Annoy the Neighbors**

Both Madeira and Wyoming have multiple households keeping chickens, ordinances similar to Montgomery's current ordinance, and have had no problems with their chicken-keeping residents. Madeira reports no complaints.

Montgomery hasn't had a chicken complaint since the 70s when a family in the Shadowhill neighborhood kept a rooster. The chickens currently being kept by Montgomery residents – we know there are at least two such households, and in all

likelihood there are more – have caused so few problems that the Montgomery Police weren't aware they existed.

### **Chickens Do Not Attract Predators to the Area**

Chickens, if left unprotected, are vulnerable to predators. But as the predators of chickens are the same as those of the wild rabbits, squirrels, chipmunks, small birds, and other local wild prey animals already present in our community, they do not themselves attract predators to the area. Because chickens are penned up in the backyard (unlike wild rabbits, for instance, which hide from predators in tall grass, brush and shrubbery), the predators may be seen more often. Coyotes, for instance, are seen more often when they take a cat or small dog than when they take a rabbit. But the presence of chickens does not attract predators to the area; predators are already here.

### **Many Residential Communities Allow Chickens Without Causing A Nuisance**

The more upscale the local community, the more likely they are to maintain relaxed ordinances pertaining to chickens. The Farm Animals Ordinance currently being considered by the City of Montgomery is more like the ordinances for Fairfield and Norwood than it is like the ordinances for Wyoming, Madeira, Glendale, and Terrace Park, all of which have current ordinances essentially identical to the current Montgomery ordinance.

CFM's Proposed Ordinance offers Montgomery residents protection in the unlikely case a neighbor would raise chickens in an irresponsible manner, but still allows the greatest possible freedom for members of our community.

### **Chickens Do Not Pose a Public Health Risk**

The type of Avian Influenza that is contagious to humans has not been found in North America. Bird Flu is spread by contact with the contaminated feces of wild migratory waterfowl. So the key issues are sanitation and contact with wild birds. Unlike rural farm birds which might co-mingle with migratory birds or drink from a shared pond, backyard chickens are contained in an enclosure and watered inside this enclosure.

As reported in Newsweek Magazine (Appendix C):

...as the Washington-based Worldwatch Institute (an environmental research group) pointed out in a report last month, experts including the Pew Commission on Industrial Farm Animal Production have said that if we do see it, it'll be more likely to be found in factory-farmed poultry than backyard chickens. As GRAIN, an international sustainable agriculture group, concluded in a 2006 report: "When it comes to bird flu, diverse small-scale poultry farming is the solution, not the problem."

Unlike cats and dogs which are prime vectors for rabies, parasites, and tick-borne diseases, backyard chickens actually keep your yard healthier for humans by eating ticks and other insects.

Salmonella, which has been associated with raw eggs, is a problem with factory-farmed eggs, not with backyard chickens.

## Chickens and the Environment

### Water Quality and Runoff

According to the OSU Extension Service ([http://ohioline.osu.edu/b804/804\\_3.html](http://ohioline.osu.edu/b804/804_3.html)) the average laying hen produces .2 - .3 pound of droppings per day, as compared to the average dog which produces 1 pound (according to the National Pet Alliance.)

Unlike dog and cat waste, chicken droppings can be composted for use on gardens and reduce the need for chemical fertilizers. Chickens reduce the need for pesticides and herbicides by eating bugs and weeds. By their very presence, chickens discourage the use of chemical lawn and garden sprays by their owners. Chicken keeping is likely to represent a net improvement in water and runoff issues rather than the opposite.

Issues of manure runoff from egg-producing chickens are associated with huge factory-style egg farms that generate tons of manure each day in a very concentrated area. For those of us who wish to continue to eat eggs in a sustainable fashion, low-density backyard chicken keeping is the solution to runoff issues, not the problem. Gardeners using commercial organic fertilizers are very likely to be using chicken-manure based products, and those keeping chickens will have less need for even these. So keeping chickens won't increase even the net amount of *organic* fertilizers used; chicken-keeping gardeners will simply be producing it themselves rather than purchasing it.

### Greenhouse Gas Emissions

In 2008 the City of Fort Collins, Colorado changed their city ordinance to legalize backyard hens. At the time, a thorough investigation was conducted on the environmental impact of residents keeping chickens. At that time, Environmental Planners in Fort Collins' Department of Natural Resources concluded that backyard hens would not significantly impact greenhouse gas emissions. (Appendix D). There's no reason to believe this would be any different here in Montgomery.

### Living Sustainably

Increasing numbers of us are interested in living more sustainably, and many communities, Montgomery included, are encouraging citizens to reduce waste and consumption of resources. Backyard chickens allow us to reduce our carbon footprint by producing some of our own food. Every food item we can produce organically and on our own property – just outside our back door – is one less item

that must be shipped to us and shopped for. Every item of food we raise ourselves represents a step in living a greener, more sustainable, lifestyle.

People who have backyard chickens are less likely to use chemicals and pesticides in their yards and gardens because it's healthier for their chickens. In return the chickens eat weeds and bugs that normally plague unsprayed yards.

Composted chicken manure is one of the most efficient natural fertilizers and is provided for free with no need for transport.

Backyard chickens eat grass clippings which might otherwise end up in the landfills and food scraps which might end up in the garbage and sewage.

## Chickens and Property Values

Local Realtors say that the presence of an attractive, well-maintained backyard chicken coop is no more likely to affect values for neighboring properties than the presence of an attractive, well-maintained backyard rabbit hutch. (Appendix E.)

In addition, some prospective home owners may be attracted to a community with a progressive stance on green issues such as chicken keeping. It's impossible to know which stance is more likely to attract rather than repel the greater number of prospective home buyers – the one that encourages conformity, or the one that encourages sustainability.

In fact, the areas with the fewest restrictions on the keeping of chickens tended to have the *highest* property values. (Appendix F.)

## Lot Size Doesn't Matter

Chickens require very little space. Shelter for four or five hens does not require any more space than that represented by many kitchen tables, and a run of 4 square feet per hen is sufficient to keep them happy and healthy. Households all over the country are keeping chickens on city and suburban lots. Whether a backyard chicken-keeper has a quarter of an acre or three hundred, he is likely to keep his hens in an enclosure with the same small footprint.

In order to assure the smallest of lots or unusual lot configuration doesn't mean chickens can be near enough to neighboring properties to cause an annoyance, CFM's Proposed Ordinance requires that chickens and enclosures be 15 feet or more from property lines, which is the distance at which most normal chicken noises are barely audible and the distance required for other setbacks.

## **Chickens Are Educational**

Chicken keeping offers suburban children the opportunity to learn where their food really comes from and about healthy, sustainable, nutritious food. They will see first hand how kitchen scraps become garden fertilizer which in turn produces beautiful vegetables. Instead of simply hearing, “Reduce, Reuse, Recycle,” they will actually experience it. Suburban kids can participate in 4H or FFA programs through keeping chickens in a suburban yard.

## **Chickens and Emergency Preparedness**

Many governments are asking community members to prepare for emergencies, whatever the cause. Many members of our community recently experienced firsthand the effects of an areawide emergency on food supplies. Backyard chickens provide a constant stream of fresh eggs without regard to the availability of electricity or refrigeration. Backyard hens will help our community be more food self-sufficient under any circumstances.

## **Chickens and the Economic Crisis**

The cost of food has risen dramatically lately, including the cost of high-quality protein-rich nutrient-dense food such as pastured eggs. Pastured organic eggs cost \$4 a dozen at Pipkin’s. In comparison, four or five backyard hens will require a total of about \$60 in feed each year and lay about 120 dozen eggs between them, depending on breed and age. That’s a savings of over \$400 a year. In addition, an egg provides about 7 grams of protein, which means those 120 dozen eggs – obtained at a cost of \$60 per year -- will supply the complete protein needs of the average woman. The ability to raise some of your own food can help provide a greater sense of security in insecure times.

## **Code Enforcement and Burdens on Government**

According to the Montgomery Police, Montgomery hasn’t received a chicken-related complaint since the 70s, when a family in the Shadowhill neighborhood kept a rooster and the city received noise-related complaints. We know that there are at least two families in Montgomery keeping chickens currently; the police have received no complaints.

Currently both Madeira and Wyoming allow chickens (under similar ordinances to Montgomery’s current ordinance), do have households raising chickens, and have no complaints related to chickens. There is no reason to believe that chickens in Montgomery will generate any more complaints than those in Madeira and Wyoming.

CFM’s Proposed Ordinance forbids roosters and doesn’t require inspections or permits. Such an ordinance will generate no significant burden on government. In

the absence of complaints – which experience both here in Montgomery and in similar communities such as Wyoming and Madeira has shown is the likeliest outcome – will generate *NO* burden on government.

## **The Urban/Suburban Chicken Movement**

Chicken keeping is very popular among those who are concerned about the environment, among those concerned about food safety and security, and among those interested in self-sufficiency and preparedness. Dozens of newspaper and magazine accounts of communities which have changed their laws to allow chickens have been written. Several environmental and educational organizations here in Cincinnati are offering classes in Beginning Chicken-Keeping, and these have proved popular.

**Montgomery, never having prohibited chicken-keeping, is one of an elite class of communities leading the way in promoting sustainable living. Let's not change our ordinances now to prohibit chickens at the same time the rest of the nation is doing the opposite.**

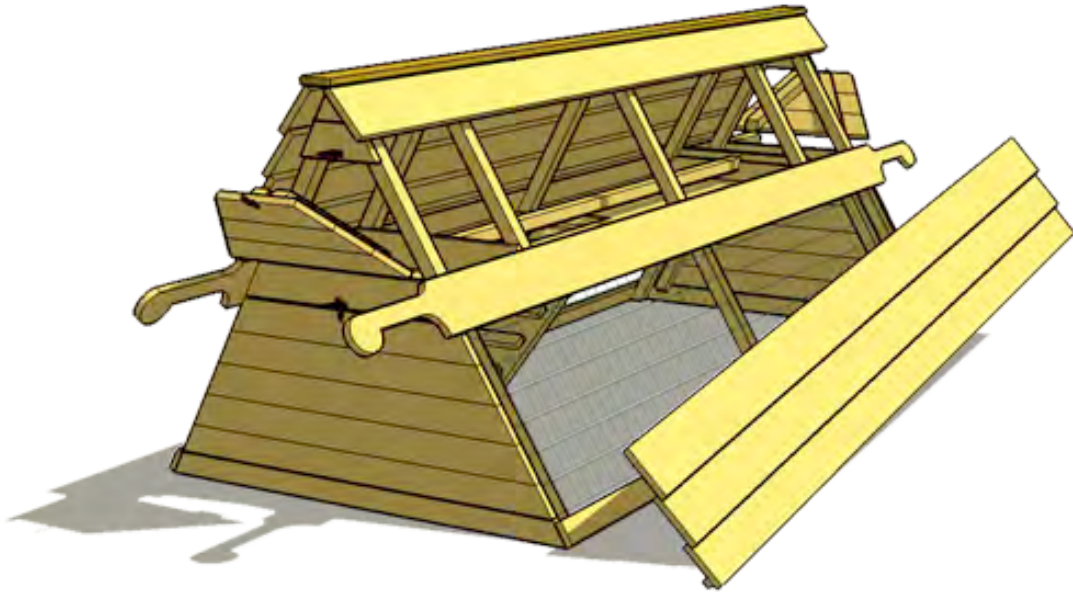
## Appendices

### Appendix A: Chicken Ordinances in Neighboring Communities

Suburb	Source	Ordinance
Blue Ash	<a href="http://www.blueash.com/content/81/91/99_745-8500">http://www.blueash.com/content/81/91/99_745-8500</a>	"Suburban farms" used for for "poultry husbandry" must be 5 acres but don't define poultry husbandry, so this would "likely be handled on a case-by-case basis if complaints were received." No complaints.
Deer Park	794-8860	Chickens allowed so long as they're contained and don't create a nuisance. Have considered add'l ordinances but decided current ordinances are sufficient. They've had households keep chickens, have had no complaints.
Evendale	<a href="http://www.amleg.com/evendale_oh/">http://www.amleg.com/evendale_oh/</a>	Chickens permitted so long as they are contained (618.01) and don't create a nuisance (618.13 & 618.17.)
Fairfield	<a href="http://www.conwaygreene.com/airfield.htm">http://www.conwaygreene.com/airfield.htm</a>	Chickens permitted on lots of three acres or larger (505.01) so long as they don't create a nuisance (505.08) or noise (505.09).
Glendale	<a href="http://www.glenaleohio.org/ordinances.html">http://www.glenaleohio.org/ordinances.html</a>	Chickens permitted so long as they are contained (91.08) and don't cause annoyance (91.04).
Indian Hill	<a href="http://www.amleg.com/indian_hill_oh/">http://www.amleg.com/indian_hill_oh/</a>	Chickens permitted under county and state laws.
Loveland	<a href="http://www.conwaygreene.com/loveland.htm">http://www.conwaygreene.com/loveland.htm</a>	Chickens permitted so long as they don't create a nuisance (505.08).
Madeira	561-7228 272-4214	Chickens are kept in Madeira by multiple households with ZERO complaints, according to a city employee. Chickens permitted as long as they don't create odors or unsanitary conditions and are not kept for strictly commercial purposes.
Mason	<a href="http://www.amleg.com/library/oh/mason.shtml">http://www.amleg.com/library/oh/mason.shtml</a>	Chickens permitted so long as they are contained (505.01), don't cause a nuisance (505.08) or excessive noise (511.06), and any building used to house them is 100' from every lot line (1147.03).
Milford	<a href="http://www.milfordohio.org/council/ordinances.html">http://www.milfordohio.org/council/ordinances.html</a> 831-4192	Chickens allowed so long as they're contained (505.01), treated humanely (505.07), and don't create a nuisance (505.08).

Montgomery	<a href="http://www.amlegal.com/montgomery_oh">http://www.amlegal.com/montgomery_oh</a>	Chickens permitted so long as they are contained (90.01) and don't create a nuisance (90.08.)
Mt Healthy	<a href="http://www.amlegal.com/mthealth_oh/">http://www.amlegal.com/mthealth_oh/</a>	Chickens must be contained (90.01) and kept 100 ft from neighboring homes (95.07).
Norwood	<a href="http://www.conwaygreene.com/norwood.htm">http://www.conwaygreene.com/norwood.htm</a>	Chickens prohibited within the city limits. (505.15)
Reading	<a href="http://www.amlegal.com/library/oh/reading.shtml">http://www.amlegal.com/library/oh/reading.shtml</a>	Chickens permitted so long as they are contained (618.01), don't create a nuisance (618.13), and are 50' from the property line and any residence (618.16).
Sharonville	563-1144	Chickens may be kept on lots of 20,000 sf (about a half acre) or larger provided they're 50 feet from the lot line.
Silverton	<a href="http://www.amlegal.com/silverton_oh">www.amlegal.com/silverton_oh</a> 936-6240	Chickens permitted if contained (90.01) and kept 200' from the lotlines (153.032).
Springdale	<a href="http://www.amlegal.com/springdale_oh/">http://www.amlegal.com/springdale_oh/</a> 346-5700	Chickens allowed on lots of at least three acres and at least 100 feet from all adjoining residential lot lines (153.496) as long as they're contained (90.01) and don't create noise (90.03).
St Bernard	<a href="http://www.conwaygreene.com/stbernard.htm">http://www.conwaygreene.com/stbernard.htm</a>	Chickens permitted so long as they are contained (505.02) and don't create a nuisance (505.10 & 505.18).
Sycamore Tshp	791-8447	Seems to be saying a zoning certificate is required to keep chickens on any lot smaller than 5 acres (3-8), and then chickens are permitted so long as they're kept 100 feet from any lot line (3-9.4b).
Symmes Tshp	683-6644	Chickens permitted under county and state laws. One complaint regarding noise associated with a rooster.
Terrace Park	<a href="http://www.amlegal.com/terracepark_oh/">http://www.amlegal.com/terracepark_oh/</a>	Chickens allowed so long as they're contained (90.01) and don't cause a nuisance (90.16).
Wyoming	<a href="http://www.conwaygreene.com/wyoming.htm">http://www.conwaygreene.com/wyoming.htm</a> 821-7600	Chickens kept by multiple households, according to Wyoming Farmers' Market asst mgr who herself keeps chickens in Wyoming. Chickens permitted as long as they don't create a nuisance (505.08 & 505.09) and are not kept for strictly commercial reasons.

## Appendix B: Backyard Coops



This is a portable chicken coop, designed to be moved from one spot to the next and light enough to be moved by two people (one on each end) or by one if wheels are attached on one end to allow it to be tipped up and rolled along. Each day the chickens get a fresh patch of grass, weeds, and bugs to eat and leave behind a small amount of natural organic fertilizer to feed the lawn. At night they go up into the top where they roost, completely protected from nocturnal predators. The sides come off to allow for cleaning, and the ends open up to allow eggs to be collected and nesting boxes to be cleaned out. It's 42" high and has a footprint on the lawn of 4' x 8', which is enough room to keep 4 or 5 chickens very happy and healthy. You build this yourself from plans. <http://www.catawbacoops.com/>



Here are a couple of 'Eglu' coops, which are more expensive but extremely easy to maintain.



<http://www.omlet.us>

## Appendix C: *The New Coop de Ville* (Newsweek 11/17/08)

### The New Coop de Ville

The craze for urban poultry farming.  
Jessica Bennett  
NEWSWEEK

For Brooklyn real-estate agent Maria Mackin, the obsession started five years ago, on a trip to Pennsylvania Amish country. She, her husband and three children—now 17, 13 and 11—sat down for brunch at a local bed-and-breakfast, and suddenly the chef realized she'd run out of eggs. "She said, 'Oh goodness! I'll have to go out to the garden and get some more'," Mackin recalls. "She cooked them up and they were delicious." Mackin and her husband, Declan Walsh, looked at each other, and it didn't take long for the idea to register: Could we have chickens too? They finished their brunch and convinced the bed-and-breakfast owner, a Mennonite celery farmer, to sell them four chickens. They packed them in a little nest in the back of their Plymouth Voyager minivan and headed back to Brooklyn.

The family has been raising chickens ever since, in the backyard of their brick townhouse in an urban waterfront neighborhood called Red Hook. Every Easter, Mackin orders a new round of chicks, now from a catalog that ships the newborns in a ventilated box while they are still feeding from their yolks. When they are grown, she offers up their eggs—and occasionally extra chickens, when she decides she's got too many—to friends and neighbors, and sells a portion to a local bistro, which touts the neighborhood poultry on its Web site. She gives the chicken manure—a high-quality fertilizer—to a local community garden in exchange for hay, which she uses to pad the chickens' wire-fenced coop. Occasionally, she kills and cooks up a chicken for dinner—though, she says, her chickens are egg layers and aren't particularly tasty. "We joke and call ourselves the Red Hook Poultry Association," says the former social worker, who at one time housed 27 chicks inside her kitchen—for six weeks. "Sometimes people are like, 'This is really kind of weird!'"

As it turns out, Mackin is hardly an anomaly, in New York or any other urban center. Over the past few years, urban dwellers driven by the local-food movement, in cities from Seattle to Albuquerque, have flocked to the idea of small-scale backyard chicken farming—mostly for eggs, not meat—as a way of taking part in home-grown agriculture. This past year alone, grass-roots organizations in Missoula, Mont.; South Portland, Maine; Ann Arbor, Mich.; and Ft. Collins, Colo., have successfully lobbied to overturn city ordinances outlawing backyard poultry farming, defined in these cities as egg farming, not slaughter. Ann Arbor now allows residents to own up to four chickens (with neighbors' consent), while the other three cities have six-chicken limits, subject to various spacing and nuisance regulations.

That quick growth in popularity has some people worried about noise, odor and public health, particularly in regard to avian flu. A few years back in Salt Lake City—

which does not allow for backyard poultry farming—authorities had to impound 47 hens, 34 chicks and 10 eggs from a residential home after neighbors complained about incessant clucking and a wretched stench, along with wandering chickens and feathers scattered throughout the neighborhood. "The smell got to be unbelievable," one neighbor told the local news. Meanwhile, in countries from Thailand to Australia, where bird flu has spread in the past, government officials have threatened to ban free-range chickens for fear they are contributing to outbreaks. (In British Columbia, where officials estimated earlier this year that there are as many as 8,000 chicken flocks, an avian flu outbreak four years forced the slaughter of more than 17 million birds.)

But avian flu has not shown up in wild birds, domestic poultry or people in the United States. And, as the Washington-based Worldwatch Institute (an environmental research group) pointed out in a report last month, experts including the Pew Commission on Industrial Farm Animal Production have said that if we do see it, it'll be more likely to be found in factory-farmed poultry than backyard chickens. As GRAIN, an international sustainable agriculture group, concluded in a 2006 report: "When it comes to bird flu, diverse small-scale poultry farming is the solution, not the problem."

Many urban farmers are taking that motto to heart. In New York, where chickens (but not roosters, whose loud crowing can disturb neighbors) are allowed in limitless quantities, there are at least 30 community gardens raising them for eggs, and a City Chicken Project run by a local nonprofit that aims to educate the community about their benefits. In Madison, Wis., where members of a grass-roots chicken movement, the Chicken Underground, successfully overturned a residential chicken ban four years ago, there are now 81 registered chicken owners, according to the city's animal-services department. "There's definitely a growing movement," says 33-year-old Rob Ludlow, the Bay Area operator of BackyardChickens.com and the owner of five chickens of his own. "A lot of people really do call it an addiction. Chickens are fun, they have a lot of personality. I think people are starting to see that they're really easy pets—and they actually produce something in return."

Because chickens can be considered both livestock and pet, farming them for eggs—or keeping them as pets—is unregulated in major cities like New York and Los Angeles. But it isn't legal everywhere. According to one recent examination by urban-agriculture expert Jennifer Blecha, just 65 percent of major cities allow chickenkeeping, while 40 percent allow for one or more roosters. (Hens don't need roosters to lay unfertilized eggs.)

Chicken slaughter, meanwhile, tends to fall under a separate (and generally stricter) set of regulations, though they're not always enforced. Most cities that allow chicken farming limit the number to four or six per household, so many urban farmers aren't raising enough chickens to slaughter and sell anyway—though they may cook up a meal or two at home. If they want to slaughter more, there are mobile slaughterhouses in places like Washington state that will do the dirty work for you: USDA-approved refrigerated trucks will pull right up to your doorstep.

Chicken farmers are finding each other on sites like TheCityChicken.com, UrbanChickens.org and MadCityChickens.com. BackyardChickens.com logs some 6 million page views each month and has some 18,000 members in its forum, where community members share colorful stories (giving a chicken CPR), photos (from a California chicken show), even look to each other for comfort. "I am worried that non-BYC people won't understand why a 34-year-old woman would cry over a \$7 chicken," writes a Stockton, N.J., woman, whose chicken was killed by a hawk.

Over at UrbanChickens.org, which launched this year, founder K. T. LaBadie, a master's student in community planning, provides updates on city ordinances, info about local chicken-farming classes and coop tours and has been contacted by activists hoping to overturn chicken bans around the nation. In Albuquerque, where she lives with her husband and four chickens—Gloria, Switters, Buffy and Omelet—residents can keep 15 chickens and one rooster, subject to noise ordinances, as well as slaughter the chickens for food. In July, LaBadie wrote in detail of her first killing: she and her husband hung the bird by its legs, slit its throat, plucked its feathers and put it on ice. Then they slow-cooked it for 20 hours. "It's not pretty, it's kinda messy, and it's a little smelly," she writes. "But it's quite real."

Meanwhile, at MadCityChickens.com, the Web site created by the Madison Chicken Underground, chat-line operator Dennis Harrison-Noonan has turned his chicken love into a mini-business: he's sold 2,000 design kits for his custom-made playhouse chicken coop, which retails for \$35. "It's really not that crazy to think that people are doing this," says Owen Taylor, the urban livestock coordinator at Just Food, which operates the New York Chicken Project. "Most of the world keeps chickens, and they've been doing so for thousands of years."

Historically, he's right. During the first and second world wars, the government even encouraged urban farming by way of backyard "Victory Gardens" in an effort to lessen the pressure on the public food supply. (Until 1859, there were 50,000 hogs living in Manhattan, according to Blecha.) "It's really only been over the last 50 years or so that we've gotten the idea that modernity and success and urban spaces don't involve these productive animals," Blecha says.

There are a host of reasons for the growing trend. "Locavores" hope to avoid the carbon emissions and energy consumption that come with transporting food. Chicken owners and poultry experts say eggs from backyard chickens are tastier and can be more nutritious, with higher levels of supplements like omega-3 fatty acids. Their production cost is cheap: you can buy chickens for as little as a couple of dollars, and three hens will likely average about two eggs a day. You can also use their waste to help revitalize a garden. "There've been recalls on everything from beef to spinach, and I think people want to have peace of mind knowing their food is coming from a very trusted source," says LaBadie. "As gas prices go up, and people realize how food is connected to oil and transportation, they are bound to realize they can get a higher quality product cheaper if they get it locally."

Keeping a chicken is relatively easy, too—assuming you don't get too attached. (That's a talk Mackin says she had with her kids early: these chickens aren't pets.) They'll eat virtually anything—"pork products, string cheese, even Chinese takeout," she laughs—and they feed on bugs and pests that can ruin a garden. They can withstand harsh weather conditions. (In one oft-told tale, a Maine woman lost her chicken in a blizzard and found it, a day later, frozen solid with its feet stuck straight in the air. She thawed it and administered CPR. The chicken made a full recovery.) And much like New Yorkers, not much bothers chickens grown in urban environments. "[Those] raised in a really controlled environment like factory farms are very fragile, both physically and emotionally," says Blecha, who lives in St. Paul, Minn., with her partner and six chickens. "My chickens, I mow the lawn a foot away from them and they don't even look up from their pecking."

But even urban chickens, who can live more than five years, can die easily: from predators like dogs or possums, catching a cold or sometimes for no apparent reason at all. Once, one of Mackin's chicks got stuck in a glue trap. She drowned it, to put it out of its misery. "That was really sad," she says. (Mackin doesn't name her chickens, for that very reason.)

But the overall experience seems to be positive for everyone. "We have people calling weekly to say, 'This is really cool'," says Patrick Comfert, a spokesman for Madison's animal-services department, where the chicken ban was reversed in 2004. "Chicken people love it, the neighbors don't care, we have no complaints." Minneapolis enthusiast Albert Bourgeois sums up the appeal. "Chickens are really fun pets," he says. His flock is named Cheney, Condi, Dragon, Fannie and Freddie. The next one, he says, will be Obama.

URL: <http://www.newsweek.com/id/168740>

## Appendix D: Greenhouse Gas Emissions

Methane

ATTACHMENT 4

**From:** Lucinda Smith, Senior Environmental Planner, Department of Natural Resources  
**To:** Cameron Gloss  
**Date:** June 6, 2008  
**Subject:** City Council, Meeting of June 3, 2008, Follow-up to Question

I understand that a question was raised at the June 3 City Council meeting about the potential impact of urban hens on air quality, especially greenhouse gas emissions.

The U.S EPA Web site on methane emission sources (<http://www.epa.gov/methane/sources.html>) states that methane emissions from non-ruminant animals is insignificant:

**"Livestock enteric fermentation.** Among domesticated livestock, ruminant animals (cattle, buffalo, sheep, goats, and camels) produce significant amounts of methane as part of their normal digestive processes. In the rumen, or large fore-stomach, of these animals, microbial fermentation converts feed into products that can be digested and utilized by the animal. This microbial fermentation process, referred to as enteric fermentation, produces methane as a by-product, which can be exhaled by the animal. **Methane is also produced in smaller quantities by the digestive processes of other animals, including humans, but emissions from these sources are insignificant."**

The U.S. EPA INVENTORY OF U.S. GREENHOUSE GAS EMISSIONS AND SINKS: 1990-2006 (April 2008; USEPA #430-R-08-005) states that ruminant animals are the major emitter of methane because of their unique digestive systems. Ruminant animals have the largest methane emissions of all animals. The report calculates the methane emissions from beef cattle, dairy cattle, horses, sheep, swine and goats; it does not even consider chickens. (See [http://epa.gov/climatechange/emissions/downloads/08\\_Agriculture.pdf](http://epa.gov/climatechange/emissions/downloads/08_Agriculture.pdf))

Most likely, the impacts of increased urban chickens in Fort Collins would be insignificant on local greenhouse gas emissions, even before considering the net carbon impact which would factor in reduced organic food scrap decomposition and other potential benefits.

**From:** Brian Woodruff, Environmental Planner, Department of Natural Resources  
**To:** Cameron Gloss  
**Date:** June 13, 2008  
**Subject:** Update on Chicken Gas

I have taken the liberty of estimating the impact on greenhouse gas [GHG] emissions from urban hens, in order to lend weight to Lucinda's earlier comment, based on USEPA, that chickens are an insignificant source because they are not ruminant animals.

Regarding methane from chicken manure, even if every single-family-detached household had six hens today, their combined contribution to GHG in Fort Collins would be only 202,000 kilograms of CO<sub>2</sub> equivalent, or only 0.009 percent of the total GHG inventory.

I would also argue that the issue is moot, because an increase in the number of urban hens would be offset by a decrease the number of non-urban hens. I.E., assuming that overall egg consumption would not change, families that take eggs from their own hens would stop buying them from elsewhere.

Assumptions, if you need them:

1. methane production = 0.05 kg/hen/year [the median of values mentioned by Councilmember Troxell]
2. number of single-family-detached households = 32,000 [based on 2006 data in Trends Report]
3. total GHG inventory = 2.467,000 tons/year = 2.24 billion kilograms/year [2004 data]
4. calculation: 32,000 households x 6 hens/household x 0.05 kg CH<sub>4</sub>/hen/year x 21 CO<sub>2</sub>e/CH<sub>4</sub> = 202,000 kg CO<sub>2</sub>e/year

## Appendix E: Letters of Support



June 10, 2009



To whom it may concern,

This letter is in response to the question of whether a home owner keeping chickens affects the property values of adjoining neighbors. It is true that the overall character of a neighborhood, including the appearance and upkeep of the homes, affects property values. Most home buyers will view poorly kept homes within a neighborhood as a negative. This includes lack of maintenance, unpleasant odors and excessive noise among other things.

Chickens or a chicken coop do not necessarily present any more problems than a dog/dog house or a rabbit/rabbit hutch. The issue is the view from neighboring properties, noise and odor. Assuming a chicken coop is kept clean and free of odors, is properly maintained just as you would a garden shed or wood fence, and there is not excessive noise, the situation should not negatively affect the neighboring properties. Any pet, whether a dog, cat or chicken, can create a nuisance for the neighbors if the pet owner does not control noise, contain the pet to their yard and properly dispose of waste.

Please feel free to contact me if you have questions or would like further information.

Sincerely,

Deb LaFrance

Realtor®, Accredited Buyer Representative, Certified Relocation Professional,

Senior Housing Specialist

Member of the Cincinnati Area Board of Realtors



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John M. Durso, CRS

To whom I may concern:

Housing values should not be affected by a well maintained, attractive backyard chicken coop. The only way a chicken coop could affect the value of a home is if the coop is not taken care of and the chickens are not attended to on a regular basis! However, the same can be said for dogs in a backyard what are not attended to and have a dilapidated doghouse! There are already nuisance laws and health ordinances in place to take care of situations that have fallen below community standards.

In summary, a well taken care of and attractive chicken coop in and of itself should have no effect on housing values!

Sincerely,

A handwritten signature in cursive script, appearing to read 'John'.

John M. Durso, CRS  
Comey & Shepherd Realtors  
513-979-2617

2716 Observatory Avenue  
Cincinnati, OH 45208

Business (513) 321-4343  
Direct (513) 979-2617

E-mail: [john@johndurso.com](mailto:john@johndurso.com)  
Website: [www.johndurso.com](http://www.johndurso.com)

## Appendix F: Property Values by Chicken Ordinance Type

### Property Values and Chicken-Keeping Ordinances

Suburb	Chicken-Keeping Ordinances	2007 Ave Home Sales Price*
Indian Hill	<b>Permit</b>	\$1,019K
Terrace Park	Generally <b>permit</b>	\$ 400K
Wyoming	Generally <b>permit</b>	\$ 326K
Symmes Twnshp	<b>Permit</b>	\$ 313K
Montgomery	Generally <b>permit</b>	\$ 297K
Evendale	Generally <b>permit</b>	\$ 288K
Glendale	Generally <b>permit</b>	\$ 274K
Mariemont	Generally <b>permit</b>	\$ 274K
Mason	Essentially prohibit	\$ 213K
Madeira	Generally <b>permit</b>	\$ 212K
Blue Ash	Case by case	\$ 202K
Loveland	Generally <b>permit</b>	\$ 174K
Fairfield	Essentially prohibit	\$ 166K
Sycamore Twnshp	Essentially prohibit	\$ 165K
Sharonville	Restricted	\$ 157K
Milford	Generally <b>permit</b>	\$ 152K
Springdale	Essentially prohibit	\$ 144K
Reading	Restricted	\$ 131K
Deer Park	Generally <b>permit</b>	\$ 130K
Silverton	Essentially prohibit	\$ 127K
St Bernard	Generally <b>permit</b>	\$ 124K
Norwood	Prohibit	\$ 119K
Mt Healthy	Essentially prohibit	\$ 116K

\*From [www.city-data.com](http://www.city-data.com)

“Generally permit” indicates chicken-keeping is allowed under minor restrictions intended to prevent chickens from becoming a nuisance

“Restricted” indicates chicken-keeping is nominally allowed, but ordinances will prevent a significant number of residents from keeping chickens

“Essentially prohibit” indicates chicken-keeping is nominally allowed but under such profound restrictions as to prevent most residents from keeping chickens

## Appendix G: History of Prohibitions on Chicken-Keeping

From *Harvest of the Suburbs* (2006) by Andrea Gaynor:

“In the 1960s it appears that, as Andrew Brown-May has suggested, ‘the increasing restriction on the keeping of productive animals was based as much on the abandonment of a perceived outdated rural era in favor of a progressive urban ideology’ as it was on concerns for health or the obviation of nuisances. This ‘urban ideology’ – part of the ‘modern outlook’ – included an element which lauded consumption and disparaged at least some types of production. Margo Huxley has proposed that such ‘by-laws’ can be seen to support consumerist trends in domestic life by regulating the amount of (non-horticultural) food production which can be undertaken on suburban blocks’, **but they can also be seen as participating in the creation of those trends.** (*ed – emphasis mine.*) In other words, the exclusion of productive animals from residential areas was one way in which various state instrumentalities – generally operated by middle-class technocrats – sought to produce clean, modern communities people with cosmopolitan commuters and consumers. Although vegetable gardening and fruit production remained acceptable suburban pastimes, in the ideal modern suburb, the whine of the Victrola motor mower would no longer have to compete with cuckling and cackling...”

## Appendix H: Successful Chicken Keeping in Montgomery in 2009

These are chickens currently being kept by the Mirza/O’Keefe household on Schoolhouse Lane, just a few hundred feet from City Hall. The run is 6’x4’, larger than necessary for four birds.



This 3’ x 3’ coop in Montgomery houses 4 Red Stars—Daisy, Bean, Apple, and Peach. The hens enjoy scratching in their run, supervised visits to the fenced vegetable garden, and play time with their owners. Every night, the lead bird (Daisy) calls to the other three, telling them it’s time for bed. They march themselves into the coop, usually by 8:45 p.m. and don’t come out until after 9 a.m., the following morning.



The coop is tucked in alongside the family's screened porch, invisible from the street and barely visible from neighboring yards.

## CHAPTER 15

### MASSAGE THERAPY

#### ARTICLE I. GENERAL

**Sec. 15-1. Definitions.** When used in this Chapter, the following words and phrases shall have the meanings set forth below except when the context clearly requires a different meaning.

A. “Business Premises” means those premises where a private or public commercial enterprise is conducted, but specifically not to include businesses conducted in a private residence, premises used for joint residential and business purposes and hotels.

B. “Couples Massage” means Massage Therapy in which two clients receive Massage Therapy in the same room at the same time on two separate massage tables from two separate Massage Therapists.

C. “Healing Arts Practitioner” means a person who has been licensed pursuant to K.S.A. 65-2801 *et seq.* to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.

D. “In-Office Massage Therapy” means Massage therapy that is conducted on the Business Premises of a massage client and is limited to Massage Therapy applied only above the massage client’s waist.

E. “Massage Therapist” means any person who, for consideration whatsoever, engages in the practice of Massage Therapy as defined herein.

F. “Massage Therapy” means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. Massage Therapy, as defined herein, does not include the touching in any fashion of human genitalia.

G. “Massage Therapy Establishment” means any establishment or location where any person, firm, partnership, association or corporation engages in or carries on or permits to be engaged in or carried on any Massage Therapy for compensation.

H. “Patron” or “Client” means any person over eighteen (18) years of age who utilizes or receives the services of any person or establishment subject to the provisions of this Chapter and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefore, provided a person under the age of eighteen (18) may utilize or receive Massage Therapy from a licensed Massage Therapist if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such Massage Therapy in writing as set forth in this Chapter.

**Sec. 15-2. References to City Officials.** Any reference in this Chapter to the Police Chief, City Clerk, Fire Marshal, Community Development Director or City Administrator shall include those persons’ designees and any individuals designated by the City Administrator.

**Sec. 15-3. Exceptions to Applicability of Chapter.** The provisions of this Chapter shall not apply to hospitals, nursing homes, sanitariums or to persons holding an unrevoked certificate to practice the healing arts, persons holding an unrevoked license to practice as a registered professional nurse under the laws of the State of Kansas working under the direction and supervision of any licensed Healing Arts Practitioner, persons licensed to practice as a physical therapist under the laws of the State of Kansas, or persons working under the direction

and supervision of any licensed healing arts practitioner or in any such establishment, nor shall this Chapter apply to barbers or cosmetologists lawfully carrying out their profession or business and holding valid, unrevoked and unsuspended licenses or certificates of registration issued by the State of Kansas.

**Sec. 15-4. Restriction to Licensed Premises.** All Massage Therapy, other than In-Office Massage Therapy, provided under the provisions of this Chapter, shall be conducted on the premises of a licensed Massage Therapy Establishment.

A. Exceptions.

1. Massage Therapy may be conducted at a private residence which has been approved by the City Planning Commission for a Home Occupation Permit for Massage Therapy Permit subject to the conditions associated with such Home Occupation Permit.

2. Massage Therapy may be conducted at a private residence at the direction of and under the direct supervision of a licensed Healing Arts Practitioner.

**Sec. 15-5. Transfer of Licenses; Other Licenses and Fees.**

A. No Massage Therapy Establishment license or Massage Therapist license shall be transferable and such authority as a license confers shall be conferred only on the licensee named therein.

B. Any applications made, fees paid and licenses obtained under the provisions of this Chapter shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other ordinances of the City.

**Sec. 15-6. Penalty.** Any person, firm, partnership, association or corporation convicted of violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment in jail for not more than six (6) months, or by both such fine and imprisonment. Each incident which is in violation of the provisions of this Chapter shall be considered as a separate offense and shall be subject to penalty as provided in this Chapter.

**Sec. 15-7 through 15-10. Reserved.**

## ARTICLE II. MESSAGE THERAPIST LICENSE

**Sec. 15-11. License required.**

A. It is unlawful for any person to conduct Massage Therapy or In-Office Massage Therapy unless he or she has a valid Massage Therapist license issued by the City pursuant to the provisions of this Chapter.

B. A license issued pursuant to this Chapter is issued for the calendar year and shall expire at the end of the calendar year for which it was issued.

**Sec. 15-12. Application for Massage Therapist License.**

A. Written Application. Any person who desires to perform Massage Therapy within the City limits shall file a written application with the City Clerk upon a form provided by the City Clerk and shall accompany the application with the annual filing fee as set forth in the City's Schedule of Fees.

B. Required Information. The completed application shall include the following required information:

1. Applicant's name, home address and telephone number;

2. Description of the applicant including height, weight, race and color of hair and eyes;

3. Applicant's fingerprints, provided once an applicant has submitted an application containing said applicant's fingerprints, the applicant will not be required to submit fingerprints in any subsequent renewal application for that person;
4. Two (2) portrait photographs of the applicant at least two inches (2") square;
5. Written evidence that the applicant is at least eighteen (18) years old;
6. The business, occupation or employment history of the applicant for the three (3) years immediately preceding the date of application;
7. Any criminal convictions, other than traffic infractions, including the jurisdiction in which the offense occurred; the sentence or other penalty, if any; and the current status of the case;
8. Proof of compliance with the educational and training requirements for a Massage Therapist license, as set forth in Section 15-15 of this Chapter;
  - a. Proof of completion of educational and training requirements must be by certified transcript. The educational and training requirements imposed by this Chapter may be fulfilled by proof of attendance at more than one school.
  - b. All Massage Therapist applicants who were validly licensed by the City with an occupational license for massage therapy on December 31, 2008 shall have until May 1, 2011 to satisfy the educational and training requirements of this Chapter; provided, however, that such massage therapist applicants shall provide proof of successful completion of the requirements for certification in first aid and in cardiopulmonary resuscitation as set forth in Section 15-15 by March 31, 2009.
9. Authorization for the City, its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant.

**Sec. 15-13. Processing and Investigation of Application.** Upon receipt of an application for a Massage Therapist license, the City Clerk shall immediately forward a copy of such application to the Police Chief to determine whether the information contained in the application is accurate and to investigate whether the applicant is qualified to be issued a Massage Therapy license. The Police Chief shall report the results of such investigation to the City Clerk in a timely manner such that the City Clerk may comply with the applicable time restrictions for issuance or denial of a license.

**Sec. 15-14. Issuance or Denial of Application.**

- A. The City Clerk shall issue a Massage Therapist license within twenty-one (21) days of receiving a completed application unless, upon examination of the application, it is determined that:
  1. The applicant for a Massage Therapist license has been convicted of, or diverted on, any of the following:
    - a. felony which involves the use, or threat of use, of physical force;
    - b. felony not involving the use, or threat of use, of physical force that is less than five years old from date of application;
    - c. any offense involving an "unlawful sex act" which shall be defined as:
      - 1) rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as each is defined by Kansas Statutes;
    - d. prostitution;
    - e. promoting prostitution;
    - f. solicitation of a lewd or unlawful act;

g. pandering or other sexually related offense.

2. The applicant has knowingly made any false, misleading or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
  3. The correct license fee has not been tendered to the City; or, in the case of a check or bank draft, it has not been honored with payment on presentation;
  4. The applicant has not successfully completed the educational requirements under the provisions of this Chapter.
- B. If an application is approved, the City Clerk shall issue the Massage Therapist license. The licensee shall keep such license available for inspection as set forth in Section 15-16.
- C. If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the applicant's mailing address as set forth on the application, and the notice shall state the basis for the denial. Any applicant aggrieved by the denial may seek judicial review to the Johnson County District Court as provided by law.

**Sec. 15-15. Educational and Training Requirements for Massage Therapist License.** To be eligible for a Massage Therapist license, an applicant shall provide proof of the following at the time of application, both initially and upon renewal:

- A. Educational Requirements. An applicant shall provide proof that the applicant:
1. has successfully completed a course of instruction made up of not less than five hundred (500) hours of instruction in the theory, method or practice of massage from a National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) approved school; or
  2. has passed the National Certification Examination for Therapeutic Massage and Bodywork.
- B. CPR and First Aid. An applicant shall provide proof of current certification in first aid and in cardiopulmonary resuscitation (CPR) by the American Heart Association or the equivalent.
- C. Continuing Education Requirements. An applicant shall provide proof of compliance with continuing education requirements of the NCBTMB or the American Massage Therapy Association (AMTA) in effect at the time of application.

**Sec. 15-16. Regulations and Conduct Requirements for Massage Therapists.**

- A. A Massage Therapist Licensee may not conduct Massage Therapy or In-Office Massage Therapy within the City limits unless said Licensee:
1. is employed by a validly licensed Massage Therapy Establishment;
  2. is the licensee of a validly licensed Massage Therapy Establishment; or
  3. resides in a residence that has an approved Conditional Use Permit from the City Planning Commission for a Home Occupation Permit for Massage Therapy.
- B. Identification Card and License. Any person issued a Massage Therapist license pursuant to the provisions of this Chapter shall, at all times when offering Massage Therapy, have in his or her possession a valid identification card issued by the City bearing the Massage Therapist's license number, physical description and photograph. Such identification card shall be issued in such form necessary to prevent alteration. The

Massage Therapist shall, at all times when offering Massage Therapy, have on the premises where such Massage Therapy is being offered, his or her Massage Therapist license. The Massage Therapist shall make available for inspection said identification card and license upon request of members of the police department and City code officers. Such inspections shall be made at reasonable times and in a reasonable manner.

C. Hours. A Massage Therapist may not conduct Massage Therapy between the hours of 2:00 a.m. and 6:00 a.m. each day.

1. a. Exception. A Massage Therapist may conduct In-Office Massage Therapy on Business Premises having bona fide evening and night shifts.
- b. Massage Therapist who is operating pursuant to a Home Occupation Permit shall be subject to hours restrictions set forth in Section 5-303 of the Merriam Zoning Regulations.

D. Separation of Sexes. It shall be unlawful for Massage Therapists to allow customers of opposite sex to receive Massage Therapy in the same room or the same quarters at the same time.

1. Exceptions.
  - a. In-Office Massage Therapy.
  - b. Couples Massage.

E. Danger to Safety, Health. No service shall be given which is clearly dangerous or harmful in the opinion of the Director of the County Department of Health to the safety or health of any person, and after such notice in writing has been delivered to the Massage Therapist from such director.

F. Alcoholic beverages. A Massage Therapist shall not allow or permit the possession or consumption of alcoholic beverages or cereal malt beverages upon that portion of the premises where the Massage Therapist is providing Massage Therapy.

G. Attire. All Massage Therapists shall be clean, wear clean outer garments and be modestly attired, with clothing covering their chests at all times. Diaphanous or transparent clothing is prohibited.

H. Covering of Private Parts. The private parts of patrons must be covered by towels, cloths, or undergarments when in the presence of a Massage Therapist. Any contact with a patron's genital area is strictly prohibited.

I. Minors. No licensee hereunder shall perform any Massage Therapy to a person under the age of eighteen (18) unless such person under the age of 18 is accompanied by a parent or legal guardian and said parent or legal guardian has provided written authorization for such Massage Therapy.

J. Hotels. Massage Therapy is prohibited in the guest rooms of hotels unless the hotel is licensed as a Massage Therapy Establishment and the Massage Therapy is conducted by a licensed Massage Therapist employed by said hotel.

#### **Sec. 15-17. Suspension or Revocation of Massage Therapist License.**

A. A Massage Therapist License issued by the City shall be suspended or revoked after a public hearing before the Police Chief, or his designated representative, where it appears that the Massage Therapist has been convicted of any offense which would make the Massage Therapist ineligible to receive a license, or for violation of any of the provisions of this Chapter, including application standards.

B. The Police Chief, before revoking or suspending any Massage Therapist License, shall give the licensee at least ten (10) days' written notice of the examination into the licensee's record and the opportunity for a public hearing before the Police Chief or his designated representative, at which hearing the relevant facts regarding the occurrence of the conviction or violation shall be determined.

C. All revocations or suspensions by the Police Chief are appealable to the City Council within ten (10) days of the revocation or suspension, provided said appeal must be in writing and delivered to the City Clerk. The City Council may uphold or rescind the suspension or revocation, and if applicable specify certain conditions and stipulations associated therewith.

**Sec. 15-18 through 15-25. Reserved.**

**ARTICLE III. MASSAGE THERAPY ESTABLISHMENT LICENSE**

**Sec. 15-26. License required.**

A. It is unlawful for any person, firm, partnership, association or corporation to operate a Massage Therapy Establishment without first having obtained a license therefore, issued by the City Clerk. It is unlawful to conduct such a business unless the license for said business is valid, unexpired, unrevoked and not suspended.

B. A Massage Therapy Establishment license is issued for the calendar year and shall expire at the end of the calendar year for which it was issued.

C. A separate license shall be required for each and every separate Massage Therapy Establishment business conducted by any one licensee.

D. The license required hereunder shall be in addition to any other license required for the operation of any other business conducted on the same premises.

E. A Massage Therapy Establishment licensee who wishes to personally provide Massage Therapy must first obtain a Massage Therapist license.

**Sec. 15-27. Application for Massage Therapy Establishment License.**

A. **Written Application.** Every applicant for a license to maintain, operate or conduct a Massage Therapy Establishment shall file a written application with the City Clerk upon a form provided by the City Clerk and shall accompany the application with the annual filing fee as set forth in the City's Schedule of Fees.

B. **Required Information.** The completed application shall include the following required information:

1. Applicant's name, home and business address and telephone number;

a. "Applicant" shall include:

- 1) any stockholder holding more than ten percent (10%) of the stock of the applicant corporation;
- 2) any officers or directors of the applicant corporation;
- 3) any partner, when the applicant is a partnership;
- 4) any manager of, or person principally responsible for the operation of, the proposed business;

2. The exact nature of the services to be provided;

3. The proposed place of business and facilities;

4. Written evidence that the applicant is at least eighteen (18) years of age;

5. Two (2) portrait photographs of the applicant at least two inches (2") square;

6. Applicant's fingerprints, provided once an applicant has submitted an application containing said applicant's fingerprints, the applicant will not be require to submit fingerprints in any subsequent renewal application for that person;
7. The business, occupation or employment history of the applicant for the three (3) years immediately preceding the date of the application;
8. The Massage Therapy business license history of the applicant; whether such applicant has previously had any massage therapy-related license revoked or suspended in any state, city or other local jurisdiction, and the basis for such revocation or suspension;
9. Any criminal convictions of the applicant, other than traffic infractions, including the jurisdiction in which the offense occurred; the sentence or other penalty, if any; and the current status of the case;
10. Authorization for the City, its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

**Sec. 15-28. Processing and Investigation of Application.**

- A. Upon receipt of an application for a Massage Therapy Establishment License, the City Clerk shall immediately provide copies of such application to the Police Chief, Fire Marshal and Community Development Director. The Police Chief, Fire Marshal and Community Development Director shall report the results of their investigations, as set forth herein, to the City Clerk in a timely manner such that the City Clerk may comply with the applicable time restrictions for issuance or denial of a license.
- B. It shall be the duty of the Police Chief to investigate the applicant and to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued a Massage Therapy Establishment license.
- C. It shall be the duty of the Community Development Director to determine whether the structure where the Massage Therapy Establishment business is proposed to be located complies with the requirements of the City's applicable health, zoning, building and property maintenance codes.
- D. It shall be the duty of the Fire Marshal to determine whether the structure where the Massage Therapy Establishment business is proposed to be located complies with the requirements of the City's applicable fire code provisions.
- E. Upon receipt of the reports from the Police Chief, Fire Marshal and Community Development Director, the City Clerk shall issue a license to the applicant provided such application is eligible for issuance of a Massage Therapy Establishment license pursuant to this Chapter. If there are inspection items that relate to the structural design of the premises that cannot be verified prior to consideration of the application by the City Clerk, the application may be approved by the City Clerk contingent on a final inspection prior to issuance of the license. All applicable code provisions for the proposed location shall be met prior to the first day such premises are open for business.

**Sec. 15-29. Issuance or Denial of Application.**

- A. The City Clerk shall issue a Massage Therapy Establishment License within thirty (30) days of receiving a completed application unless, upon examination of the application, it is determined that:
  1. The business, as proposed by the applicant, if permitted, would not comply with all applicable laws including, but not limited to, the City's health, zoning, building, and property maintenance codes;
  2. The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the applicant corporation; or any of the officers or directors, if the applicant is a

corporation; or any of the partners, if the applicant is a partnership; or the manager or other person principally responsible for the operation of the business, has been convicted of, or diverted on, any of the following:

- a. a felony which involves the use, or threat of use, of physical force;
  - b. a felony not involving the use, or threat of use, of physical force that is less than five years old from date of application;
  - c. any offense involving an “unlawful sex act” which shall be defined as:
    - 1) rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as each is defined by Kansas Statutes;
  - d. prostitution;
  - e. promoting prostitution;
  - f. solicitation of a lewd or unlawful act;
  - g. pandering or other sexually related offense.
3. The applicant has knowingly made any false, misleading or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
  4. The correct license fee has not been tendered to the City; or, in the case of a check or bank draft, it has not been honored with payment on presentation;
  5. The applicant has had a Massage Therapy Establishment or other similar permit or license denied, suspended, or revoked for any of the above listed causes by this City or any other state, city or other local jurisdiction within five (5) years of the date of the application;
  6. The applicant has previously been issued a license for an adult entertainment business or escort service, or has been employed by any such establishment;
  7. The applicant, if an individual; or any of the officers and directors, if the application is a corporation; or any of the partners if the applicant is a partnership; or the manager or other person primarily responsible for the operation of the business, has not attained the age of eighteen (18) years; or
  8. the manager or other person primarily responsible for the operation of the business would be ineligible to receive any license under the provisions of this Chapter.

B. If a Massage Therapy Establishment license is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the applicant’s mailing address as set forth on the application, and the notice shall state the basis for the denial. Any applicant aggrieved by the denial may seek judicial review to the Johnson County District Court as provided by law.

**Sec. 15-30. Regulations and Conduct Requirements for Massage Therapy Establishments.** Operation of a Massage Therapy Establishment shall be subject to the following regulations:

- A. License to be Posted. A Massage Therapy Establishment license shall, at all times, be displayed by the licensee in an open and conspicuous place on the premises where the licensed business is conducted.
- B. Limited to Premises. It shall be unlawful to operate a Massage Therapy Establishment at any other premises than specified in the license.
- C. Supervision. The licensee shall have the premises supervised at all times when open for business. The licensee or a person employed by the business shall be present and personally supervise the premises and shall not violate, or permit others to violate, any applicable provision of this Chapter. The violation of any provision of this Chapter by any employee of the licensee shall be deemed a violation by the licensee.
- D. Conduct of Premises. A Massage Therapy Establishment licensee shall at all times be responsible for the conduct of business on the licensed premises and for any act or conduct of said licensee’s employees which constitutes a violation of the provisions of this Chapter. Any violation of any city, state or federal laws

committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license may be grounds for suspension or revocation of a license.

**E. Massage Therapist License Required.**

1. It shall be unlawful for a Massage Therapy Establishment licensee to personally conduct Massage Therapy or In-Office Massage Therapy unless said Licensee holds a valid Massage Therapist license issued by the City.

2. It shall be unlawful for any Massage Therapy Establishment licensee to permit or allow Massage Therapy on the licensed premises by anyone other than a licensed Massage Therapist.

**F. Hours.** The business shall be closed and operations shall cease between the hours of 2:00 a.m. and 6:00 a.m. each day.

a. A business operated pursuant to a Home Occupation license shall be subject to hours restrictions set forth in Section 5-303 of the Merriam Zoning Regulations.

**G. Separation of Sexes.** It shall be unlawful for Massage Therapy Establishment licensees to allow customers of opposite sex to receive Massage Therapy in the same room or the same quarters at the same time.

1. Exceptions.

- a. In-Office Massage Therapy.
- b. Couples Massage.

**H. Danger to Safety, Health.** No service shall be given which is clearly dangerous or harmful in the opinion of the Director of the County Department of Health to the safety or health of any person, and after such notice in writing has been delivered to the licensee from such director.

**I. Alcoholic Beverages.** No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed or permitted in or upon any premises licensed under the provisions of this Chapter.

**J. Sanitary Conditions.** Every portion of a licensed establishment shall be kept clean and operated in a sanitary condition. Clean, laundered sheets and towels shall be available in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.

**K. Attire.** All employees shall be clean, wear clean outer garments and be modestly attired, with clothing covering their chests at all times. Diaphanous or transparent clothing is prohibited.

**L. Dressing Rooms.** Licensees shall provide separate dressing rooms for each gender on the licensed premises, with individual lockers for each employee who provides Massage Therapy.

**M. Covering of Private Parts.** The private parts of patrons must be covered by towels, cloths, or undergarments when in the presence of the Licensee or any employee. Any contact with a patron's genital area is strictly prohibited.

**N. Locked Premises.** No Massage Therapy may be offered or provided within any cubicle, room, booth or other area within the licensed premises which is fitted with a door that can be locked.

**O. Minors.** No licensee shall permit Massage Therapy to be provided to any person under the age of eighteen (18) years of age unless accompanied by his or her parent or legal guardian and said parent or legal guardian has provided written authorization for such Massage Therapy.

**P. Employee Register.** The licensee shall keep and maintain on the licensed premises a current register of all employees, including each employee's name, address and Massage Therapist license numbers. Such register shall be open to inspection at all reasonable times by any City code officer or members of the Police department.

Q. Client Register. All licensees shall keep a daily register of all clients, including each client's name, address, time of arrival and, if applicable, the assigned room or cubicle. Said daily register shall be open to inspection at all reasonable times by any City code officer or members of the Police department and shall be kept on file for one year.

S. In-Office Massage Log. Massage Therapy Establishments that employ Massage Therapists who conduct In-Office Massages at a Client's Business Premises shall maintain an annual log or ledger of such In-Office Massages which includes the Massage Therapist's name, name of business visited, physical address of the business and date and time of each appointment.

T. Advertising. No licensee shall place, publish, or distribute or cause to be placed, published or distributed any advertising that depicts any activity or any portion of the human body that would reasonably suggest to a reasonable person who viewed such advertising that the business provides any service other than those permitted under this Chapter, or that employees of the business will be dressed in any manner inconsistent with the regulations set forth in this Chapter, nor shall any Massage Therapy Establishment indicate in the text of any advertising promulgated by that business that any service is available other than those services permitted under this Chapter.

**Sec. 15-31. Right of Entry and Inspection.** Members of the police department and City code officers may, from time to time, make an inspection of each licensed Massage Therapy Establishment in the City, including locations where In-Office Massages are provided, for the purposes of determining that the provisions of this Chapter are being complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee to fail to allow such officer immediate access to the premises or to hinder such officer in any manner. Provided further, that any failure on the part of any Licensee, agent or employee thereof to permit immediate access to such officer shall be grounds for revocation or suspension of a license issued pursuant to this Chapter.

**Sec. 15-32. Suspension or Revocation of Massage Therapist License.**

A. A Massage Therapy Establishment license issued by the City shall be suspended or revoked after a public hearing before the Police Chief where it appears that the Massage Therapy Establishment licensee has been convicted of any offense which would make the licensee ineligible to receive a license or for violation of any of the provisions of this Chapter, including application standards.

B. The Police Chief, before revoking or suspending any Massage Therapy Establishment License, shall give the licensee at least ten (10) days' written notice of the examination into the licensee's record and the opportunity for a public hearing before the Police Chief, at which hearing the relevant facts regarding the occurrence of the conviction or violation shall be determined.

C. All revocations or suspensions by the Police Chief are appealable to the City Council within ten (10) days of the revocation or suspension, provided said appeal must be in writing and delivered to the City Clerk. The City Council may uphold or rescind the suspension or revocation, and if applicable specify certain conditions and stipulations associated therewith.

**(Ord. No. 1611, 12-22-08; Ord. No. 1617, 5-18-09)**

COMMITTEE RECOMMENDATION – June 6, 2010  
Agreement in Principle – The Shawnee Indian Mission Buildings Endowment

The development of a \$1,000,000 endowment, with the capital and interest beyond that amount being used for the benefit of the Shawnee Indian Mission State Historic Site as outlined herein.

The Endowment Principle (the ask/purpose):

The preservation of the three historic structures (buildings) at the Shawnee Indian Mission National and State Historic Site as they exist as of January, 2010.

The Definition

1. Within the historic footprint and envelope of the three structures
2. Including electrical, plumbing and HVAC as well as permanent fixtures and the interior structural needs (i.e. – walls, floors and ceilings)

The Limits:

1. The East Building as it exists as of January, 2010 including the exterior electrical panel
2. The North Building as it exists as of January, 2010 with the exception of the development of an exterior electrical panel similar in nature to the East Building
3. The West Building subject to the January 2010 capital campaign and to include an exterior electrical panel similar in nature to the East Building

Long-term Endowment Ownership:

The endowment will be overseen and managed as outlined herein by the Shawnee Indian Mission Foundation in perpetuity provided the site remains open to the public as a National and State Historic Site as outlined in the Site Mission and Site Vision sections of the March 2008 Site Master Plan.

In the event that the Shawnee Indian Mission Foundation ceases to exist the management and oversight of this endowment will be entrusted to a Johnson County based not-for-profit or any municipality located within Johnson County for the benefit of the Shawnee Indian Mission State Historic Site. The replacement organization(s) shall be approved by the Johnson County Board of Commissioners.

For purposes of example, appropriate Johnson County based not-for-profit organizations would include but not be limited to a support group of the Shawnee Indian Mission State Historic Site, the Johnson County Heritage Trust Fund, the Kansas Preservation Alliance, etc.

The State of Kansas, the Kansas State Historic Society and the Kansas State Historic Society Inc. (and any future replacement organizations of those entities) are not appropriate replacement organizations of this endowment. <<NOTE OF REASON: In this hypothetical scenario, why give local monies to the organization that played a role in closing the site.>>

In the event that the Shawnee Indian Mission State Historic Site is closed for reasons other than construction/preservation related purposes, no monies shall be expended and the endowment shall continue to be managed by the Shawnee Indian Mission Foundation (or its replacement organization) for the potential future benefit of the Shawnee Indian Mission State Historic Site.

In the event that the Shawnee Indian Mission State Historic Site is closed for a period of more than 24 months (including construction/preservation related purposes), monies shall not be expended from the endowment.

In the event that the Shawnee Indian Mission State Historic Site is closed for a period of 36 months within any 60-month period the site shall be considered permanently closed and the endowment shall become the property of the organization managing the endowment. That organization shall utilize the funds for any Johnson County Kansas historic related purpose it deems appropriate.