

**Council Members Hoey, Doesschate and Anane introduced, which was approved:**

**ORDINANCE NUMBER 8.31.19 (As Amended)**

**AN ORDINANCE AMENDING ARTICLE VIII (FARM ANIMALS) OF CHAPTER 115 (ANIMALS) OF THE CODE OF THE CITY OF ALBANY TO AUTHORIZE AND PERMIT THE KEEPING OF HENS**

**The City of Albany, in Common Council convened, does hereby ordain and enact:**

**Section 1. Section 115-30 of Chapter 115 of the Code of the City of Albany is hereby amended to read as follows:**

§ 115-30. Purpose.

The purpose of this article is to protect the residents of the City of Albany from nuisance by animals usually known as farm animals or fowl. The keeping or harboring of farm animals within the City of Albany is incompatible with urban life to regulate the conditions for the keeping of "farm animals or fowl" so as to protect the residents of the City of Albany from nuisance and to maintain compatibility with urban life.

**Section 2. Section 115-31 of Chapter 115 of the Code of the City of Albany is hereby amended to read as follows:**

§ 115-31. Keeping of farm animals or fowl prohibited.

It shall be unlawful for any ~~No~~ person ~~except as provided herein, to shall keep or maintain, harbor, or shelter~~ any farm animal or fowl within the City of Albany. For purposes of this article, farm animal or fowl shall include cows, cattle, horses, ponies, donkeys, mules, pigs, goats, sheep, chickens, roosters, ducks, geese, or other animals or fowl usually known as "farm animals" but not solely limited to the aforementioned and not including common household pets.

**Section 3. Section 115-32 and 115-33 of Chapter 115 of the Code of the City of Albany are hereby re-numbered as Section 115-36 and 115-37 and new Sections 115-32, 115-33, 115-34 and 115-35 are added to read as follows:**

**§115-32. Keeping of Hens**

The owner or primary occupant of any dwelling may be permitted to be keep on the lot containing the dwelling a maximum of six (6) hens provided that:

- A. The property has two hundred (200) square feet of total lot area exclusive of buildings for the keeping of two hens, with an additional one hundred (100) square feet for every additional hen up to the maximum of six hens permitted;
- B. No person shall keep any rooster (male chicken);

- C. The hens shall be provided with a clean, covered, well-ventilated enclosure that is secure from predators and is cleaned regularly to prevent the accumulation of animal waste, feathers, and uneaten food;
- D. The hens must be kept in the covered enclosure or within a fenced area at all times;
- E. No enclosure for the hens shall be located closer than 25 feet to an occupied residential dwelling on an adjoining lot, provided, however such setback can be reduced upon submission of written permission from the owner of any adjoining dwelling(s) that is closer than 25 feet to the planned location of the hen enclosure;
- F. The total area of all coops or enclosures on a lot shall not be greater than 150 sq. feet for up to 6 hens. Coops or enclosures shall not exceed seven feet in height and coops exceeding 80 sq. feet in size shall be subject to any and all permits deemed necessary by the Director of the Department of Buildings and Regulatory Compliance;
- G. All coops or enclosures shall provide a minimum of 4 sq. feet per hen and a run shall have a minimum of 8 sq. feet;
- H. No part of the enclosure or coop for hens shall be located in front of the front wall plane of a building or side wall plane of a building facing a street.
- I. Hens shall be fed only from a trough or appropriate container. Scattering of food on the ground is prohibited. Any feed not in use shall be kept in a sealed rat proof container;
- J. The person has obtained a license from the City Clerk and maintains a facility for keeping hens in compliance with the issuance criteria;
- K. There shall be no outdoor slaughtering of hens;
- L. All hens are subject to the unnecessary and unusual noises provisions set forth in Article V of Chapter 255 of the Code of the City of Albany; and
- M. Any person who keeps hens under this section shall comply with all City and New York State laws, ordinances, and regulations regarding care, shelter, sanitation, health, noise, cruelty, neglect, reasonable control, and any other requirements pertaining to the adequate care and control of animals in the City.

### **Sec. 115-33 Hen License Application and License Issuance**

- A. The Albany City Clerk's Office is hereby authorized and directed to establish an application and license for the keeping of hens consistent with the provisions of this chapter;
- B. The application for such license must be accompanied by a \$25 dollar application fee and shall include the following information and documentation:
  - 1. The name, phone number and property address of the applicant and the property owner, if different;
  - 2. The location of the subject property;
  - 3. The number of hens the applicant seeks to keep on the property;

4. A description of any coops or cages that will house the hens, together with a description of any fencing, barriers or enclosures surrounding the boundaries of the property;
  5. A scaled drawing of the property showing the precise location of cages, coops, enclosures, fences and barriers in relation to property lines and to structures on adjacent properties;
  6. A signed statement from the property owner, if the applicant is not the property owner, granting the applicant permission to engage in the keeping of hens as described in the license application;
  7. A signed statement from any adjoining property owner if the coop is to be located less than 25 feet from the occupied residential dwelling located on their property;
  8. If the proposed coop or other structure will exceed 80 sq. feet, a permit or other documentation from the Director of the Department of Buildings and Regulatory Compliance approving the structure;
  9. Any additional information the City Clerk may require to determine whether the application and proposed keeping of hens will comply with the requirements of this chapter.
- B. No more than one license may be issued for each parcel of property and no more than 80 licenses shall be issued and in effect at any given time;
- C. The City Clerk shall issue a license upon determining that the application is complete and that the information provided reasonable demonstrates that the proposed structure and keeping of hens will be consistent with the provision of the chapter. The City Clerk may impose such conditions as he or she may deem necessary to ensure compliance with this chapter;
- D. Licenses shall be effective only for the calendar year in which they are issued. A license may be renewed annually pursuant to the provisions hereof and the applicant may continue to keep hens pursuant to the terms and conditions set forth herein and imposed in the initial license, provided that he or she submits a renewal application and pays the annual fee of \$25 dollars on or before the expiration date of the license or the date at which this provision is deemed expired and repealed. The application fee shall not be prorated.

**Sec. 115-34. Unsanitary Facilities, Penalties for Offenses and Revocation of Permit.**

- A. All facilities for keeping hens shall be open at all times for inspection by an Animal Control Officer, the Director of Buildings and Codes or an agent thereof. If an inspection reveals that any provision in this Chapter is violated, the Director of Buildings and Codes

shall give written notice to the keeper of the hens, specifying the violation and requiring that the violation be corrected within 48 hours, or within such reasonable time period as determined by the Director of Buildings and Codes or an agent thereof and as set forth in written correspondence. If the violation is not corrected within the period specified, the Director of Building and Codes or an agent thereof shall issue a fine or the City Clerk may revoke the specified hen permit in accordance with this chapter.

- B. If after 48 hours or such reasonable time period as determined by the Director of Building and Codes or an agent thereof, the violation persists, the Director of Building and Codes or an agent thereof shall issue a letter stating the violation and shall issue a fine of \$150 for a first offense, and provide an additional 15 day period from the date of the letter to correct such violation. If a person or entity is found to be in violation of this chapter beyond the initial 15 day period or found to be in violation for a second time, the Director of Building and Codes or an agent thereof shall issue a letter stating the violation and impose a fine of \$300, and provide a 15 day period from the date of the letter with which to correct the violation. A person or entity being found in violation of this chapter for a third offense shall have their permit revoked and hens seized.
- C. The City Clerk may revoke any permit upon determining, in conjunction with the City's Department of Buildings and Regulatory Compliance, that the facility for keeping hens no longer meets the conditions required for the issuance of a permit or that the permit was issued upon fraudulent or untrue representations or that the person holding the permit has violated any of the foregoing provisions.
- D. Any fines levied under this chapter shall be in addition to any other provisions for enforcement contained in this Code.

### **Sec. 115-35 Seizure of Hens**

Anytime at which a person or entity has their permit revoked under this chapter, an animal control officer shall immediately demand that possession of all hens be forthwith relinquished to said animal control officer, who shall impound said hens with notice to the owner. The owner of such hens may request the City Court to conduct a hearing within 15 days to determine if the revocation of the permit was valid. Upon such request, the City Court shall provide for the hearing within 5 days. At such hearing all interested persons shall have the opportunity to present evidence on the issue. If no such hearing is requested within 15 days from the notification of the hen's impoundment, the hens shall become the property of the City.

**Section 4. This ordinance shall take effect on the 30<sup>th</sup> day after it shall become a law and shall expire and be deemed repealed December 31, 2021.**

APPROVED AS TO FORM  
March 8, 2019

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Corporation Counsel

**TO:** Cashawna Burt, Acting City Clerk  
**FROM:** Jared Pellerin, Research Counsel  
**RE:** Request for Common Council Legislation  
Supporting Memorandum  
**DATE:** March 8, 2019; Revised June 20, 2019

**ORDINANCE NUMBER 8.31.19** (*As Amended*)

**TITLE: AN ORDINANCE AMENDING ARTICLE VIII (FARM ANIMALS) OF CHAPTER 115 (ANIMALS) OF THE CODE OF THE CITY OF ALBANY TO AUTHORIZE AND PERMIT THE KEEPING OF HENS.**

**GENERAL PURPOSE OF LEGISLATION:** This ordinance amends Chapter 115 of the City Code in order to allow the keeping of hens in the City of Albany. It also establishes a permit system and allows for revocation of the permit if the standards are not met.

**NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW:**

The keeping of hens in the city supports a local, sustainable food system by providing an affordable, nutritious source of protein through fresh eggs. The keeping of hens also provides free, quality, nitrogen-rich fertilizer; chemical-free pest control; animal companionship and pleasure; weed control; amongst other benefits of urban agriculture. The purpose of this ordinance is to establish standards for the keeping of domesticated hens within the City. It is intended to enable residents to keep a small number of female chickens on a non-commercial basis while limiting the potential adverse impacts on the surrounding neighborhood.

The legislation was developed and revised in consultation with the Mayor's Office, Animal Control and the Department of Buildings and Regulatory Compliance, after taking into consideration comments and concerns expressed by members of the public. The legislation allows for a maximum of six hens per license, contains standards for the size and location of coops and runs, ensures sanitary conditions at all times, requires all coops to be at least 25 feet in distance from an occupied residential dwelling on an adjoining property, prohibits the slaughtering of hens outdoors and subjects hens to unnecessary noise regulations. Roosters are strictly prohibited.

This legislation allows for only 80 hen licenses to be issued and in effect at any given time over the two year time period that these provisions are active. The bill is set to sunset on December 31, 2021, at which time the provisions will be deemed repealed unless the Common Council acts prior to the expiration date to extend the sunset date or chooses to make the provisions permanent. This will require the Common Council and the City administration to evaluate the City's experience over the initial 2 years of implementation and determine whether any amendments are appropriate before choosing to either continue the program or allowing it to expire.

**FISCAL IMPACT:** None.

**Passed by the following vote of all the Council Members elected voting in favor thereof:**

*\*Ordinance 08.31.19 was co-sponsored by Council Members Conti*

Affirmative – Anane, Applyrs, Balarin, Conti, Doesschate, Fahey, Flynn, Hoey, Igoe,  
Kimbrough, O’Brien and Robinson

Negative – Johnson

Affirmative 12 Negative 1 Abstain 0

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Clerk of the Common Council

\_\_\_\_\_  
President of the Common Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

I, Danielle Gillespie, City Clerk and Clerk of the Common Council,  
do hereby certify that Ordinance Number 08.31.19 was passed at a  
meeting of the Albany Common Council on July 1, 2019.

In Affirmation thereof, I hereto set my hand and affix The Seal of the  
City of Albany this \_\_\_\_ day of July 2019.

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Danielle Gillespie, Clerk of the Common Council