

**TO:** Zoning Board of Adjustment  
**FROM:** Matt Wyant, County Planning Director  
**DATE:** February 10, 2023

**RE:** Case #ZV-2022-01

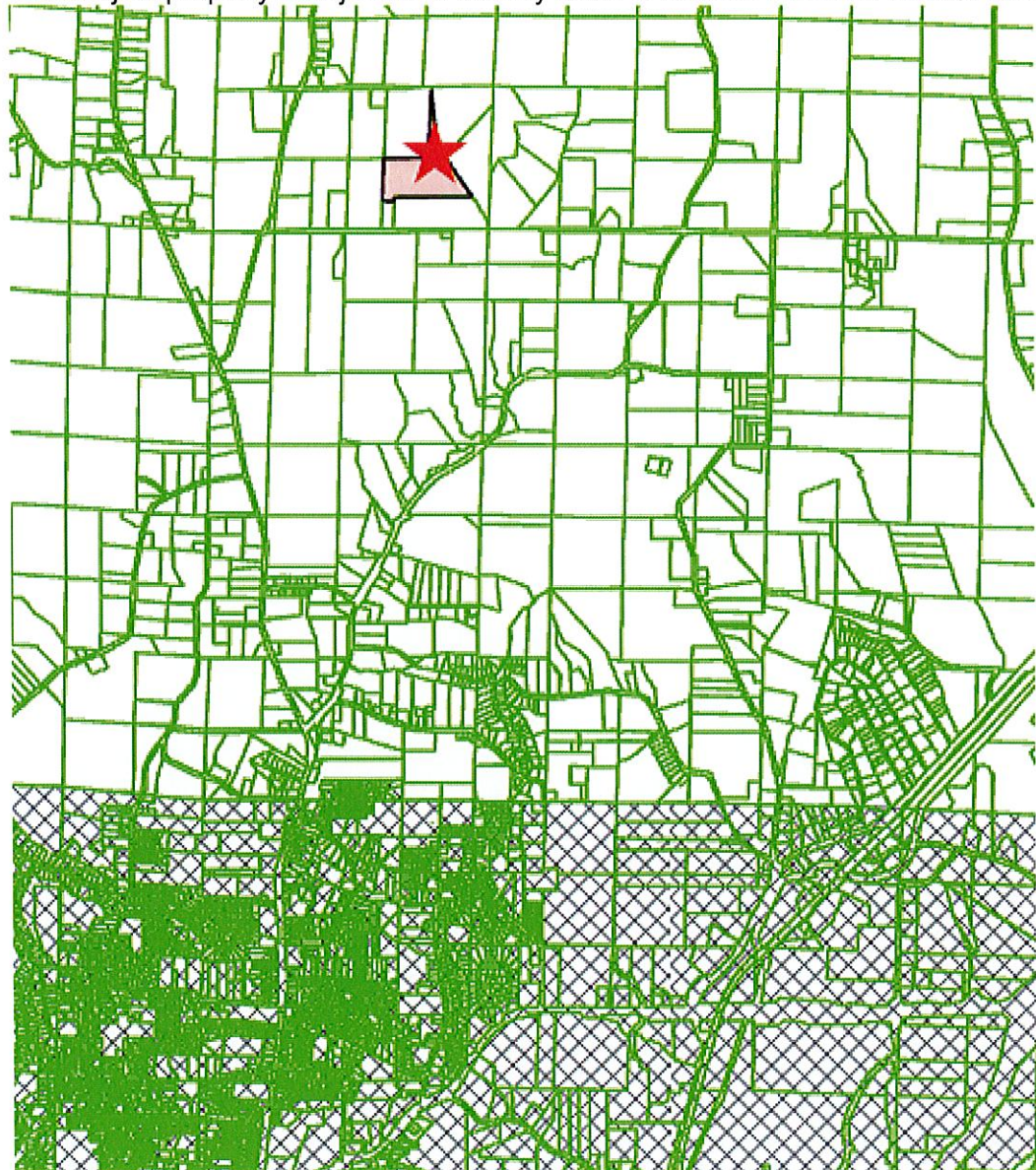
**REQUEST:** A 20' variance to allow a structure for raising and keeping fowl (Urban Chickens) to be 5' to the dwelling on site in lieu of 25' as stated per Code.

**LOCATION:** 310 Timber Drive

Garner Township

GREENMEADOWS 2ND SUB LT 103

The subject property is adjacent to the city limits of Council Bluffs on Timber Drive.



**APPLICANT:** James Koch

**APPLICANT'S SUBMITTAL:**

Pottawattamie County  
Planning & Development Department  
Zoning Board of Adjustment  
223 S 6th St #4,  
Council Bluffs, IA 51501

To Whom It May Concern:

Enclosed is the Zoning Variance Application we are required to submit for review despite having a chicken coop located in its current position for nearly a decade with no concerns or complaints from adjacent neighbors. The setbacks referenced in the Pottawattamie County Urban Chicken Ordinance are arbitrary and unreasonable, especially when compared with the setbacks required in other major cities in Iowa and Omaha as noted below.

**Pottawattamie County Urban Chicken Setback Requirements:**

- Private structures for raising and keeping animals and fowl...no such structure (to include corrals and other similar structures) shall be located closer than fifty (50) feet to any property line, nor shall the animals be kept or pastured closer than twenty-five (25) feet to any dwelling on the site. (3.50.035 Urban Chickens: (Ordinance #2022-04), D.15)

**Cedar Rapids Urban Chicken Setback Requirements:**

- Hen House / Chicken Tractor must be at least 10 feet from the property line and 25 feet from any neighboring structure or occupancy.  
(Source: <https://cms8.revize.com/revize/cedarrapids/Development%20Services/website-docs/Urban%20Chicken%20Petition.pdf>)

**Iowa City Urban Chicken Setback Requirements:**

**Site Requirements**

1. The property must be a single-family residence.
2. A tenant must obtain the landlord's written permission to install a coop.
3. Coops cannot be within 25 feet from any neighboring habitable structure.
4. Coops cannot be located within 5 feet of the habitable structure on the applicant property.
5. Coops cannot be located within 5 feet of the property line.
6. Coops and pens shall be located only in the back yard. Back yard means "rear yard" as defined in the City Zoning Code.

(Source: <https://www.iowa-city.org/weblink/0/doc/1480604/Electronic.aspx>)

**Des Moines Urban Chicken Setback Requirements:**

- Sec. 18-137. - Enclosures. Any enclosure, pen, coop, or hutch in which pets are maintained shall be cleaned at a minimum of every other day or more often if deemed advisable or necessary by a health officer. They shall be located at a minimum of 25 feet from a neighboring dwelling, as the term "dwelling" is defined in section 134-9.7 of this Code. (Source: [https://library.municode.com/ia/des\\_moines/codes/code\\_of\\_ordinances?nodeId=MUCO\\_CH18\\_AN\\_ARTIVPEAN\\_§18-137EN](https://library.municode.com/ia/des_moines/codes/code_of_ordinances?nodeId=MUCO_CH18_AN_ARTIVPEAN_§18-137EN))


**Omaha Urban Chicken Setback Requirements:**

- Upon review of the Omaha Code of Ordinances there appear to no (0 – ZERO) setback requirements. (Source: Chapter 6 and Chapter 18 of the Omaha Municipal Codes [https://library.municode.com/ne/omaha/codes/code\\_of\\_ordinances?nodeId=PTIIMUCO\\_CH6AN](https://library.municode.com/ne/omaha/codes/code_of_ordinances?nodeId=PTIIMUCO_CH6AN)).

By comparison, the draconian nature of the Pottawattamie County setbacks makes it nearly impossible for a coop to be located on a family's residential private property. In Cedar Rapids, Iowa City and Des Moines, a coop only needs to be at most 25 feet from a neighbor's dwelling, not the property line as in Pottawattamie County. Iowa City requires only 5 feet of distance from the applicant's dwelling and neither Des Moines nor Cedar Rapids require any distance from the applicant's dwelling. Omaha's only requirement is that the coop is not a public nuisance. The fact that we are required to set our coop back 50 feet from any property line, 25 feet from our home and 75 feet from the center of the street is completely unreasonable.

Despite these overreaching requirements, we were able to find a location in our yard to place the coop; however, a variance is necessary, as we need to move it within less than 10 feet of our dwelling as noted on the attached variance application.

Regards,



James Koch  
310 Timber Drive

CC: Pottawattamie County Board of Supervisors

ZV-2023-01

FOR OFFICE USE ONLY: RECEIPT # \_\_\_\_\_

POTTAWATTAMIE COUNTY, IOWA  
ZONING VARIANCE APPLICATION

PROPERTY OWNER	Name	James Koch			
	Mailing Address	Street	310 Timber Dr	City, State, Zip	Council Bluffs, IA 51503
	Contact Information	Email <input checked="" type="checkbox"/>	jandlkoch@gmail.com	None # <input type="checkbox"/> Work # <input type="checkbox"/> Cellular <input type="checkbox"/>	402.650.9550
APPLICANT <small>(if other than property owner)</small>	Name				
	Mailing Address	Street		City, St, Zip	
	Contact Information	Email <input type="checkbox"/>		None # <input type="checkbox"/> Work # <input type="checkbox"/> Cellular <input type="checkbox"/>	<input type="checkbox"/> Contract Purchaser <input type="checkbox"/> Owner's Authorized Agent <input type="checkbox"/> Legal Option Holder
REPRESENTED BY	Name	Self - See above.			
	Mailing Address	Street		City, St, Zip	
	Contact Information	Email <input type="checkbox"/>		None # <input type="checkbox"/> Work # <input type="checkbox"/> Cellular <input type="checkbox"/>	
PROPERTY INFORMATION	Job Site Address	<input checked="" type="checkbox"/> Same as above #1 <input type="checkbox"/> To be assigned by Planning Dept.			
	Civil Township	Garner Township			
	Legal Description	<input checked="" type="checkbox"/> Per Attachment	GARNER TWP-GREENMEADOWS 2ND SUB LT 103		
	Parcel Number	754333155001			
	Zoning District	<input type="checkbox"/> A-1 <input type="checkbox"/> A-2 <input type="checkbox"/> A-3 <input type="checkbox"/> A-4 <input type="checkbox"/> R-1 <input type="checkbox"/> R-2 <input checked="" type="checkbox"/> R-3 <input type="checkbox"/> R-5			
	Floodable Development	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes, subject to Flood Plain Regulations		
PROPOSAL	Present Use	Urban chicken coop.			
	Reason for Request and intended improvements	<input type="checkbox"/> Per Attachment	After meeting with Angela Rathbun of Animal Control to discuss and measure the layout of our yard, she suggested that we request a variance of 20' to be applied to the positioning of our chicken coop from our dwelling. According to her measurements we meet the other setbacks for the street and property lines.		
VARIANCE REQUESTED	Type	<input type="checkbox"/> Single <input type="checkbox"/> Principal Structure <input type="checkbox"/> Accessory Structure <input type="checkbox"/> Use of Coverage <input type="checkbox"/> Size <input type="checkbox"/> Wash <input type="checkbox"/> Deck <input type="checkbox"/> Rear Yard <input checked="" type="checkbox"/> Red Setback <input type="checkbox"/> Front Yard <input type="checkbox"/> Street Side Yard <input type="checkbox"/> Interior Side Yard <input type="checkbox"/> Rear Yard <input type="checkbox"/> Parking <input type="checkbox"/> Space Size <input type="checkbox"/> Number of Spaces <input type="checkbox"/> Driveway Lane Width <input type="checkbox"/> Sign <input type="checkbox"/> Sign <input type="checkbox"/> Single <input type="checkbox"/> Expansion <input type="checkbox"/> Nonconforming Use <input type="checkbox"/> Alteration <input type="checkbox"/> Encroachment <input type="checkbox"/> Expansion <input type="checkbox"/> Nonconforming Structure <input type="checkbox"/> Alteration <input type="checkbox"/> Encroachment <input type="checkbox"/> Expansion			
	Minimum	25' from dwelling	Proposed	5' from dwelling	Variance Proposed (Minimum minus Proposed) 20'

ATTACHMENTS

ATTACHED TO THIS APPLICATION IS THE FOLLOWING DOCUMENTATION AND/OR ATTACHMENTS:

- |  |                                     |                                     |
|--|-------------------------------------|-------------------------------------|
| A. Site Plan, Drawn to Scale   | Attached                            | NA                                  |
| B. Information Pertinent to the Request  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| C. Filing Fee-Checks are to be made payable to "Pottawattamie County Treasurer". | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

Please make be certain that you want to proceed with this project when you submit your application. The fees that you submit are not refundable once the application is submitted.

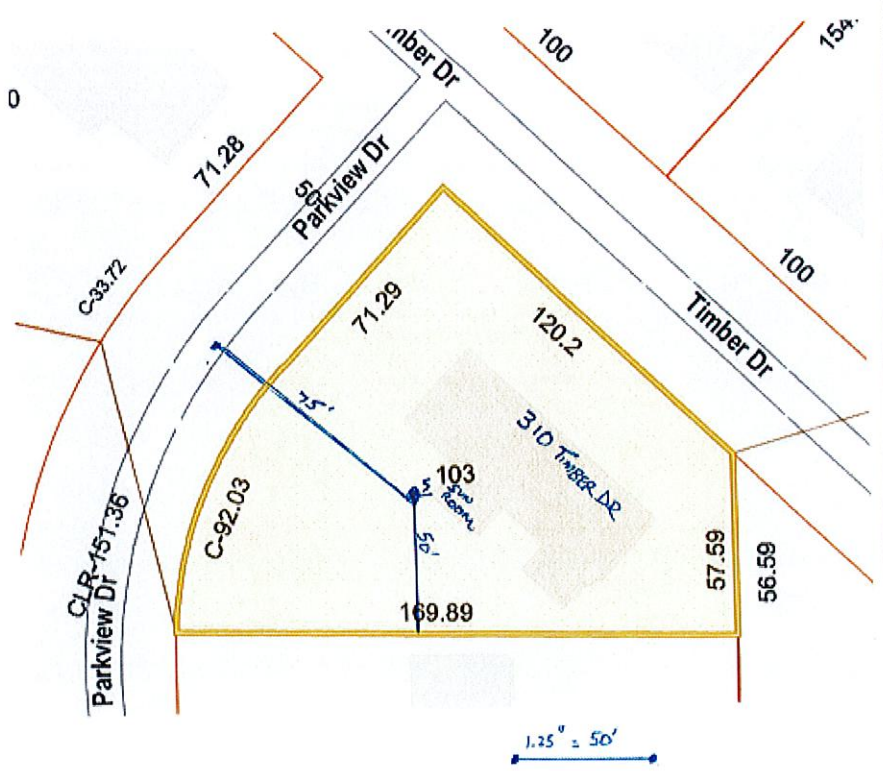
SIGNATURE

THE FACTS I HAVE PRESENTED ABOVE ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.		
<input checked="" type="checkbox"/> Property Owner <input type="checkbox"/> Contract Purchaser <input type="checkbox"/> Owner's Authorized Agent <input type="checkbox"/> Legal Option Holder	Signature	Date
	Type or Print Name	01/20/2023
James Koch		

Zoom Out Move North Zoom In



1" = 50'





**Pottawattamie County**  
 Planning Department-Public Health Division  
**Animal Control**  
 223 South 6<sup>th</sup> St. • Council Bluffs, Iowa 51501  
 712-366-1143

**Notice to Comply**

**YOU ARE HEREBY NOTIFIED THAT YOU ARE ALLOWING TO EXIST OR CONTRIBUTING TO A CONDITION WHICH COULD CONSTITUTE A VIOLATION OF POTTAWATTAMIE COUNTY AND/OR STATE OF IOWA CODE.**

- ANIMAL RUNNING AT LARGE,** \_\_\_\_\_  
 It shall be unlawful for the owner or custodian of any animal, including livestock, to fail to keep the same from running at large.
- DOG LICENSE REQUIRED,** \_\_\_\_\_  
 Requires that all dogs 6 months of age or older to be licensed annually.
- FOOD/WATER/SHELTER, State Code 717B.3 / County Code 3.50.007** – An owner shall provide sufficient food, water, shelter and humane treatment for animals in their care. It shall be unlawful under this Chapter for an owner or any other person to beat, starve or otherwise abuse any animal.
- BARKING DOG,** \_\_\_\_\_  
 It shall be unlawful to keep or harbor any dog or other animal which, by frequent, regular, habitual, or continued barking, whining, yelping, howling or other loud noises. Such annoyance shall be considered a public nuisance.
- ANIMAL BITE,** \_\_\_\_\_  
 Rabies is transmitted through saliva of an infested animal. Medical care should be sought when bitten. Quarantine: Incorporates all regulations and duties imposed by Iowa Chapter 351
- OTHER:** Urban Chickens Code 3.50.035

**PENALTIES**

>Violation of any Pottawattamie County Animal Control Code could result in a Citation of County Infraction – **First Offense \$750.00 and court costs- Second Offense \$1000.00 and court costs**  
 >Failure to comply with the above State Code could result in a Fine of up to **\$500.00 and/or up to 30 days in jail and court costs**

**CORRECTIVE MEASURES ARE AS FOLLOWS (IF APPLICABLE)**

Structures for raising fowl must be 50 feet from any property line nor 25 feet from dwelling located in rear yard.  
Please rehome your chickens within 30 days.

PLEASE CONTACT THIS OFFICE WITHIN 24 HOURS

Name James + Tana Koch Address 310 Timber Dr. CB  
 File # \_\_\_\_\_ Notice # 1 Date 11/28/22 Time 10:15 a.m. / p.m.

From: Maria Sieck <[maria.sieck@pottcounty-ia.gov](mailto:maria.sieck@pottcounty-ia.gov)>  
Date: Wed, Jan 11, 2023, 4:27 PM  
Subject: RE: Urban Chicken Ordinance Follow-up  
To: Jim & Tana Koch <[jandtkoch@gmail.com](mailto:jandtkoch@gmail.com)>

Good Afternoon Jim,

After consultation with the County Attorney, the variance request that you would need to complete is the Zoning Variance Application to the Office of Planning and Development, Zoning Board of Adjustment, attached. It will need to be received before January 25<sup>th</sup>. If that office doesn't receive an application by that time, a Citation of County Infraction for failure to comply with County code will be issued.

**Maria Sieck, REHS CFM**

*Administrator*

**Public Health**

600 South 4<sup>th</sup> Street | Council Bluffs, IA 51503

P: 712.242.1155 | EXT: 1131 | M: 402.690.5624

[PottCounty-ia.gov](http://PottCounty-ia.gov)

From: Jim & Tana Koch <[jandtkoch@gmail.com](mailto:jandtkoch@gmail.com)>  
Sent: Thursday, December 29, 2022 7:24 PM  
To: Maria Sieck <[maria.sieck@pottcounty-ia.gov](mailto:maria.sieck@pottcounty-ia.gov)>  
Subject: Re: Urban Chicken Ordinance Follow-up

You don't often get email from [jandtkoch@gmail.com](mailto:jandtkoch@gmail.com). [Learn why this is important](#)

**CAUTION External Message: Double check full sender address before you click links or open attachments. If you suspect a phishing attempt, contact the IT Dept.**

Dear Ms. Sieck:

If you cannot produce the specific details of the complaint against us, your response highlights the illegitimacy and arbitrary nature of the complaint. We've spoken with neighbors on either side, across the street and down the block and all are angry about this.

On September 20<sup>th</sup>, we voiced our concerns regarding the government overreach and infringement of property rights by the ordinance to the Board of Supervisors. According to Ms. Rathbun of Animal Control, on November 7<sup>th</sup>, a noise complaint was made against us by a neighbor 2 doors down. On December 12<sup>th</sup>, I met with Ms. Rathbun in her office and explained that the situation surrounding the singling-out of our family for enforcement of the county's urban chicken ordinance is suspect due to the nature of events leading up to her visit to our home on November 28<sup>th</sup>.

Twice when I asked Ms. Rathbun why no other chicken owners in the area were being singled-out to have their chickens "re-homed" she said because "there have been no complaints against them". This is where the

unconstitutionality of the enforcement of the ordinance becomes evident. By not enforcing the ordinance uniformly, the Department of Health fails to provide us with equal protection under the law, directly violating the 14<sup>th</sup> Amendment of the US Constitution.

We have sought counsel from several elected public officials and spoken with many of our Green Meadows neighbors, who agree that this is an unconstitutional and unjust attack on our family's private property rights and self-sufficiency.

If the issue is noise, then what prevents us from "filing a complaint" against every dog owner within hearing distance of our home? Everyone knows that dogs are MUCH louder than chickens. Is the County prepared to issue "re-homing" orders to hundreds of local dog owners? Will the County continue to go full-communist on private property owners? Most voters in this county do not want to live this way.

Jim and Tana Koch

On Wed, Dec 21, 2022 at 3:03 PM Maria Sieck <[maria.sieck@pottcounty-ia.gov](mailto:maria.sieck@pottcounty-ia.gov)> wrote:

Good afternoon, Jim,

Public Health does not have a complaint form that we can forward out to you. When a complaint is received, the situation is reviewed for code violations, and if present, we work with the property owner to resolve violations to be in-compliance with code.

If the intention is to submit a variance request. In order to stay complaint with state code, the application would be heard at the March meeting. After the Board has made a determination on the request, we will review with you on the time needed to either meet the requirements of the variance and/or rehome the chickens. I hope this information helps, please reach out to me with questions.

Thank you,

Maria

**Maria Sieck, REHS CFM**

*Administrator*

**Public Health**

600 South 4<sup>th</sup> Street | Council Bluffs, IA 51503

P: 712.242.1155 | EXT: 1131 | M: 402.690.5624

[PottCounty-ia.gov](http://PottCounty-ia.gov)



**From:** Angela Rathbun <[Angela.Rathbun@pottcounty-ia.gov](mailto:Angela.Rathbun@pottcounty-ia.gov)>  
**Sent:** Tuesday, December 20, 2022 8:32 AM  
**To:** Jim & Tana Koch <[jandtkoch@gmail.com](mailto:jandtkoch@gmail.com)>  
**Cc:** Maria Sieck <[maria.sieck@pottcounty-ia.gov](mailto:maria.sieck@pottcounty-ia.gov)>  
**Subject:** Re: Urban Chicken Ordinance Follow-up

Hello,  
Maria has been out of the office. I need to meet with her to get your formal complaint that you are requesting. Yes, that is correct about the 30 days not being enforced yet.

Sincerely,

Angela

**Angela Rathbun**

*Animal Control Officer*

**Public Health**

600 South 4<sup>th</sup> Street | Council Bluffs, IA 51503

P: 712.242.1155 | EXT: 5851

[PottCounty-ia.gov](http://PottCounty-ia.gov)

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**From:** Jim & Tana Koch <[jandtkoch@gmail.com](mailto:jandtkoch@gmail.com)>  
**Sent:** Monday, December 19, 2022 9:28 PM  
**To:** Angela Rathbun <[angela.rathbun@pottcounty-ia.gov](mailto:angela.rathbun@pottcounty-ia.gov)>  
**Cc:** Maria Sieck <[maria.sieck@pottcounty-ia.gov](mailto:maria.sieck@pottcounty-ia.gov)>  
**Subject:** Urban Chicken Ordinance Follow-up

Some people who received this message don't often get email from [jandtkoch@gmail.com](mailto:jandtkoch@gmail.com). [Learn why this is important](#)

**CAUTION External Message: Double check full sender address before you click links or open attachments. If you suspect a phishing attempt, contact the IT Dept.**

Dear Ms. Rathbun:

At our meeting last Monday, 12/12, you said you would email me a copy of the noise complaint against our chickens by our neighbor. To date I have not received it. Also, you said that the 30-day deadline to re-home our chickens would not be enforced as long as our case was not finalized.

Please forward me a copy of the complaint and confirm my understanding of the stay on the deadline.

Thank you,

James Koch

## **TEN PLANKS OF THE COMMUNIST MANIFESTO**

Our "elected representatives" have passed laws implementing these anti-freedom concepts. The communists have achieved a **de facto FEDERAL SOCIALIST GOVERNMENT** in America.

In 1848 Karl Marx and Frederick Engels wrote a book outlining a political ideology, titled "**The Communist Manifesto**". Marxism's basic theme is that the proletariat (the "exploited" working class of a capitalistic society) will suffer from alienation and will rise up against the "bourgeoisie" (the middle class) and overthrow the system of "capitalism." After a brief period of rule by "the dictatorship of the proletariat", the classless society of communism would emerge. In his **Manifesto Marx described the following ten steps as necessary steps to be taken to destroy a free enterprise society.** Notice how many of these conditions, foreign to the principles that America was founded upon, have now, in 1997, been realized by the concerted efforts of socialist activists? Remember, government interference in your daily life and business is intrusion and deprivation of our liberties!

**First Plank: Abolition of private property in land and the application of all rents of land to public purposes.** (Zoning - Model ordinances proposed by Secretary of Commerce Herbert Hoover widely adopted. Supreme Court ruled "zoning" to be "constitutional" in 1921. **Private owners of property required to get permission from government relative to the use of their property.** Federally owned lands are leased for grazing, mining, timber usages, the fees being paid into the U.S. Treasury.)

**Second Plank: A heavy progressive or graduated incometax.** (Corporate Tax Act of 1909. The 16th Amendment, allegedly ratified in 1913. The Revenue Act of 1913, section 2, Income Tax. These laws have been purposely misapplied against American citizens to this day.)

**Third Plank: Abolition of all rights of inheritance.** (Partially accomplished by enactment of various state and federal "estate tax" laws taxing the "privilege" of transferring property after death and gift before death.)

**Fourth Plank: Confiscation of the property of all emigrants and rebels.** (The confiscation of property and persecution of those critical - "rebels" - of government policies and actions, frequently accomplished by prosecuting them in a courtroom drama on charges of violations of non-existing administrative or regulatory laws.)

**Fifth Plank: Centralization of credit in the hands of the State,** by means of a national bank with State capital and an exclusive monopoly. (The Federal Reserve Bank, 1913- -the system of privately-owned Federal Reserve banks which maintain a monopoly on the valueless debt "money" in circulation.)

**Sixth Plank: Centralization of the means of communications and transportation in the hands of the State.** (Federal Radio Commission, 1927; Federal Communications Commission, 1934; Air Commerce Act of 1926; Civil Aeronautics Act of 1938; Federal Aviation Agency, 1958; becoming part of the Department of Transportation in 1966; Federal Highway Act of 1916 (federal funds made available to States for highway construction); Interstate Highway System, 1944 (funding began 1956); Interstate Commerce Commission given authority by Congress to regulate trucking and carriers on inland waterways, 1935-40; Department of Transportation, 1966.)

**Seventh Plank: Extension of factories and instruments of production owned by the State,** the bringing into cultivation of waste lands, and the improvement of the soil generally in accordance with a common plan. (Department of Agriculture, 1862; Agriculture Adjustment Act of 1933 -- farmers will receive government aid if and only if they relinquish control of farming activities; Tennessee Valley Authority, 1933 with the Hoover Dam completed in 1936.)

**Eighth Plank: Equal liability of all to labor. Establishment of industrial armies especially for agriculture.** (First labor unions, known as federations, appeared in 1820. National Labor Union established 1866. American Federation of Labor established 1886. Interstate Commerce Act of 1887 placed railways under federal regulation. Department of Labor, 1913. Labor-management negotiations sanctioned under Railway Labor Act of 1926. Civil Works Administration, 1933. National Labor Relations Act of 1935, stated purpose to free inter-state commerce from disruptive strikes by eliminating the cause of the strike. Works Progress Administration 1935. Fair Labor Standards Act of 1938, mandated 40-hour work week and time-and-a-half for overtime, set "minimum wage" scale. Civil Rights Act of 1964, effectively the equal liability of all to labor.)

**Ninth Plank: Combination of agriculture with manufacturing industries, gradual abolition of the distinction between town and country, by a more equitable distribution of population over the country.** (Food processing companies, with the co-operation of the Farmers Home Administration foreclosures, are buying up farms and creating "conglomerates.")

**Tenth Plank: Free education for all children in public schools. Abolition of children's factory labor in its present form. Combination of education with industrial production.** (Gradual shift from private education to publicly funded began in the Northern States, early 1800's. 1887; federal money (unconstitutionally) began funding specialized education. Smith-Lever Act of 1914, vocational education; Smith-Hughes Act of 1917 and other relief acts of the 1930's. Federal school lunch program of 1935; National School Lunch Act of 1946. National Defense Education Act of 1958, a reaction to Russia's Sputnik satellite demonstration, provided grants to education's specialties. Federal school aid law passed, 1965, greatly enlarged federal role in education, "head-start" programs, textbooks, library books.

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**SITE REVIEW:**

A single family dwelling and septic system are located on the .34 acre lot.



**AREA REVIEW:**

The use of properties in the area are primarily residential.



**ZONING:**

The subject property is located in a Class R-3 (Urban Residential) District.

8.004.085 The following accessory uses shall be permitted in the Class "A" and "R-1, R-2 and R-3" Districts, unless otherwise denoted: (Ordinance #2015-05/12-18-2015)

8.004.080 .15 Private stables and other structures for raising and keeping animals and fowl, provided that not more than one (1) animal unit per acre of pasture shall be permitted and further provided that no such structure (to include corrals and other similar structures) shall be located closer than fifty (50) feet to any property line, nor shall the animals be kept or pastured closer than twenty-five (25) feet to any dwelling on the site. The area devoted to such uses shall be kept in a clean and sanitary condition, and shall be maintained so as drainage will not affect the health and safety of adjacent property owners. Private stables shall not be permitted in the R-3 and R-5 Districts. Notwithstanding the provisions of this section, the keeping of domestic chickens (members of the subspecies of *Gallus gallus domesticus*) shall be permitted on properties with a single-family dwelling that have less than one acre of pasture and/or are in the R-3 (Urban Residential) Zoning District, so long as such keeping is in strict compliance with this subsection and all other applicable County ordinances unless , despite compliance with the following , the presence of any particular chickens endangers the health, safety, peace , quiet , comfort, enjoyment of, or otherwise becomes a public nuisance to nearby residents or occupants or places of business. (Ordinance #2022-05/)

8.002.260 .01 FRONT YARD: A yard extending between side lot lines and measured horizontally and at right angles from the front lot line to the nearest point of the principal building or structure. (Ordinance #81-6/10-01-81)

.02 REAR YARD: A yard extending between side lot lines and measured horizontally and at right angles from the rear lot line to the nearest point of the principal building or structure. (Ordinance #81-6/10-01-81)

.03 SIDE YARD: A yard extending between the front and rear yard and measured horizontally and at right angles from the side lot line to the nearest point of permitted building or structure. (Ordinance #81-6/10-01-81)

8.004.050 CORNER LOT: After the effective date of this Ordinance, the front yard setback requirement for a particular district shall apply equally to each yard of a corner lot which abuts a street other than an alley. (Ordinance #82-11/10-07-82)

8.002.130 .040 LOT LINES the property lines bounding a lot. (Ordinance #81-6/10-01-81) .01 FRONT LOT LINE: The lot line separating the front of the lot from the street. However, for purposes of determining lot requirements in cases where the front lot line is located within a street or highway right-of-way or easement, the street right-of-way line shall be used. In the case of a corner lot, that part of the lot having the narrowest frontage on any street shall be considered the front lot line. (Ordinance #96-4/02-09-96)

8.004.090 ACCESSORY BUILDINGS AND STRUCTURES: The following regulations shall govern the placement and use of accessory buildings and structures:

.02 Detached accessory buildings may be erected as provided below:

D. Regardless of its location, a detached accessory building shall maintain a distance of eight (8) feet (wall to wall) from any principal building or structure, or other detached accessory building situated on the same lot. (Ordinance #86-7/09-12-86)

**IOWA SEPTIC CODE:**

**69.3(2) Minimum distances.** All private sewage disposal systems shall be located in accordance with the minimum distances shown in Table I.

**Table I**

Minimum Distance in Feet From	Closed Portion of Treatment System <sup>(1)</sup>	Open Portion of Treatment System <sup>(2)</sup>
Private water supply well	50	100
Shallow public water supply well <sup>(3)</sup>	200	400
Deep public water supply well <sup>(4)</sup>	100	200
Groundwater heat pump borehole	50	100
Lake or reservoir	50	100
Stream or pond	25	25
Edge of drainage ditch	10	10
Dwelling or other structure	10	10
Property lines (unless a mutual easement is signed and recorded)	10	10
Other type of subsurface treatment system	5	10
Water lines continually under pressure	10	10
Suction water lines	50	100
Foundation drains or subsurface tiles	10	10

## URBAN CHICKEN ORDINANCE:

3.50.035

### URBAN CHICKENS: (Ordinance #2022-04)

.01 Notwithstanding the provisions of this section, the keeping of domestic chickens (members of the subspecies of *Gallus gallus domesticus*) shall be permitted on properties with a singlefamily dwelling that have less than one acre of pasture and/or are in the R-3 (Urban Residential) Zoning District, so long as such keeping is in strict compliance with this subsection and all other applicable County ordinances unless , despite compliance with the following , the presence of any particular chickens endangers the health, safety, peace, quiet, comfort, enjoyment of, or otherwise becomes a public nuisance to nearby residents or occupants or places of business.

A. No person shall keep chickens inside a single-family dwelling unit.

B. A tenant must obtain the landlord's written permission to keep chickens, which shall be submitted as part of the application for a permit.

C. Chickens must be confined in a coop or fowl house not less than 18 inches in height or, in the alternative, within a fenced pen area. Chickens must be kept within the coop, the fowl house, or the fenced pen area at all times unless removed for a temporary time for cleaning or for the safety of the chicken. Chickens must be housed in the coop from dusk until dawn.

D. The coop, the fowl house, or the fenced pen area shall be located in the rear yard only (as defined in Section 8.002.260.02 of the Pottawattamie County, Iowa Zoning Ordinance), must be of such a design to be reasonably expected to prevent entry by dogs, cats, or other animals, shall be completely enclosed (except fenced pen area), shall be well maintained, and shall be well drained so there is no accumulation of moisture

E. The materials used in making a coop or fowl house (stationary or mobile) shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal, or similar materials is prohibited.

F. Any coop, fowl house, or fenced pen area shall be kept clean, sanitary and free from accumulation of chicken excrement and objectionable odors. All droppings and body excretions shall be either placed in fly-proof containers and double-bagged in plastic bags or, in the alternative, used as fertilizer on the same property so long as the droppings and body excretions are spread and incorporated into the soil within twentyfour (24) hours.

G. Odors from chickens, chicken manure or other chicken related substances shall not be perceptible beyond the boundaries of the permitted tract of land. Noise from chickens shall not disturb persons on adjoining properties or beyond based on an objective or reasonable person standard.

H. All chicken feed shall be stored in rodent-proof containers.

I. No more than twelve (12) chickens shall be kept or maintained per property.

J. All chickens shall have wings clipped at any given time so as to eliminate the possibility of flight from the permittee' s property.

K. All such chickens must be hens; no roosters are permitted.

L. The County shall not be liable for injury or death of chickens caused by dogs, cats, or other animals, domestic or wild, whether such animals are licensed by the County or not. Further, injury or death of a chicken caused by an animal is not, in and of itself, sufficient grounds for Animal Control to determine that the animal is a dangerous/vicious animal pursuant to Section 3.50.010. Any dead chicken, not caused by slaughtering, shall be disposed of immediately upon discovering in a manner so as not to cause a nuisance pursuant to Chapter 8, Zoning Ordinance. M. Any slaughter of chickens not regulated by state law or otherwise forbidden or regulated shall be done only in a humane and

sanitary manner and shall not be done open to the view of any public area or adjacent property owned by another.

- .02 No person shall keep any chickens unless they possess a Pottawattamie County, Iowa Urban Chicken (Hen) Permit issued by Animal Control.
- A. Animal Control shall provide an application form upon request, which shall include consent forms for landlords.
  - B. The fees and associated costs shall be set by resolution.
  - C. Permits will be granted for one (1) year valid from January 1 through December 31. Permits may be purchased at any time during the year but will be valid only through December 31.
  - D. The applicant shall successfully complete an approved class in raising chickens in an urban setting prior to being issued a permit. Animal Control shall maintain a current list of such approved classes.
  - E. By the granting of the permit to raise chickens and the application thereof, the permittee authorizes that the County or its agents have the right to go onto permittee's property any time and without prior notice for the limited purpose of inspection of the premises to ensure that all applicable conditions have been met.
  - F. Within thirty (30) days after the expiration of any permit, the permittee shall apply for and secure a renewal of the permit in the manner provided for in this chapter. Failure to renew a permit within the time herein provided shall result in a delinquent fee, in addition to the regular permit fee, as set by the Pottawattamie County, Iowa Board of Supervisors. All applicants shall be furnished with permit rules and regulations at the time the application is made.
  - G. The permit is a limited license for the activity, and no vested zoning rights arise from the permit being issued.
  - H. The permit does not run with the land. Private restrictions on the use of the property shall remain enforceable and shall supersede the permit. The private restrictions include, but are not limited to, deed restrictions, neighborhood association bylaws, covenants and restrictions, and rental agreements. A permit issued to a person whose property is subject to private restrictions that prohibit keeping of chickens is void.
- .03 In the event that an applicant or permittee does not fully and strictly comply with the requirements of this section, the application may be denied or the permit may be revoked. If an application is denied or a permit is revoked, the applicant or permittee shall be so informed in writing and also informed of the right to appeal said decision.
- A. In any instance where Animal Control has denied, revoked, suspended, or not renewed a permit, the applicant or permit holder may appeal the decision to the Pottawattamie County, Iowa Board of Health within ten (10) business days of receipt by the applicant or holder of the permit of the notice of the decision.
  - B. When an application for a permit is denied or when a permit is revoked:
    - 1. The applicant may not re-apply for a new permit for a period of 1 year from the date of the denial or revocation unless the denial or revocation is due to administrative reasons only, as determined by Animal Control.
    - 2. Any chicken(s) shall be removed immediately.
    - 3. Any coop, fowl house, fencing or other structures shall be removed within ten (10) days of the date of the permit being denied or revoked.
  - C. Animal Control shall issue a permit within 7 to 10 working days from receipt of application.

Section 8.096.030.02 of the County Code states "No variance from the terms of this Ordinance shall be granted unless the Board specifically finds":

- .02 The Board shall have the power to hear and decide appeals for variances from the specific terms of this Ordinance which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will, in an individual case, result in unnecessary hardship, and provided, that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

No variance from the terms of this Ordinance shall be granted unless the Board is satisfied that granting the variance:

- A. Is necessary to alleviate a demonstrable hardship or difficulty so great as to warrant the variance;
- B. Will not merely serve as a convenience to the applicant;
- C. Will not impair the general purpose and intent of the regulations and provisions contained in this Ordinance;
- D. Will not impair an adequate supply of light and air to adjacent properties;
- E. Will not increase the hazard from fire and other damages to said property;
- F. Will not diminish the value of land and buildings in the County;
- G. Will not increase the congestion and traffic hazards on public roads; and
- H. Will not otherwise impair the public health, safety and general welfare of the inhabitants of the County.
- I. Is not based on the nonconforming use of neighboring lands, structures or buildings in the same district, and the permitted or nonconforming use of lands, structures, or buildings in other districts is not grounds for the issuance of the variance.
- J. Will not, under any circumstances, allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

**FLOOD HAZARD:** The Flood Insurance Study prepared by the Federal Emergency Management Agency for the County designates in the Flood Insurance Rate Maps that the property as being in a Zone X-Areas of minimum flooding.



