

TO: City Council
JCOW Government Services Committee

FROM: Eric D. Blowers, Deputy Police Chief

DATE: April 26, 2023

RE: Consideration of Ordinance No. 23-22, "Amending Title 5 of the Municipal Code Relating to Dogs and Animals in the City of Batavia."

Summary

The Police Department is seeking to amend Title 5 of the Municipal Code relating to the regulation of dogs and other animals in the City of Batavia. Staff worked cooperatively with legal counsel on this proposal. Staff recommends approval of the revisions to the Municipal Code as indicated in the attachment in order to improve and enhance the department's ability to respond to and enforce violations of the animal control chapter of the Batavia Municipal Code.

Background

The animal control ordinance was originally drafted in 1972. As of the present date, much of the original ordinance remains in place, with spot revisions and additions made to certain sections. Recently, sections of the existing ordinance have been defeated in court due to vague language and provisions that are difficult to enforce. One of the most glaring issues with the existing ordinance is Section 5-4A-2 Running at Large Prohibited. The ability to enforce this commonly utilized section is limited to public roadways and public places. This section does not address animals that may have left the premises of the owner and encroached onto another's property, even in unfortunate circumstances where the animal has attacked another person or animal. The new ordinance language clarifies this section and prohibits animals from running unrestrained anywhere other than the owner's property.

The existing ordinance also lacks language that addresses new technologies readily available in the animal care marketplace, specifically electronic fences, and electronic leashes. Use of these technologies is becoming more common, requiring revisions to the Code to address them.

The City of Batavia currently contracts with Kane County Animal Control to provide animal control services for the City. The services provided to the city are limited and primarily related to the pick-up and housing of stray animals. In instances where Kane County Animal Control has been requested to assist with Dangerous and Vicious dog investigations, staff has not been satisfied with the disposition of several investigations. Animals that have attacked other companion animals without provocation have not been classified as dangerous and investigations into those matters have either been refused or not resolved to the satisfaction of staff and the community at large. Staff believes the community would be better served by providing the city with the authority to classify animals as dangerous nuisance animals, thereby affording the city greater leverage to impose remedies with the safety of the community in mind. As a Home Rule municipality, the City of Batavia has the ability to regulate dangerous nuisance animals, and in extreme cases, take actions against the owner to require removal of the animal from the community, require certain medical procedures, to seek to have the animal euthanized, or any other remedy to abate the nuisance or violation of this chapter.

Other areas that have been specifically addressed in the revisions to Title 5 of the Municipal Code that were either not addressed or deficient in the existing ordinance are as follows:

- Significant expansion of the section regulating cruelty to animals (5-4-5)
- Addition of language regarding animals left in Motor Vehicles or Trailers (5-4-6)
- Expansion of the section regulating how animals may be declared nuisances (5-4-8)
- Requirements for examination, vaccination, and microchipping (5-4-11)

Many of the more recently revised areas of the code have been left in place, to include the removal of excreta and the standards for keeping of chickens.

Analysis:

The age of the existing Animal Control ordinance renders significant parts of the ordinance out-of-date and obsolete. Revisions are required in order to ensure the ability to consistently regulate animals in the City of Batavia. These revisions will help ensure the health safety and welfare of the City's citizenry and will aid in addressing new technologies in the animal care marketplace.

Alternatives:

- Make the recommended revisions to Title 5 of the Municipal Code as outlined in attachment.
- Make no changes to the revisions to Title 5 of the Municipal Code.
- Direct staff to make other revisions to Title 5 of the Municipal Code.

Budget Impact:

- Neutral: Police Department personnel would use the revisions of Title 5 of the Municipal Code to more effectively regulate unrestrained, aggressive, or nuisance animals within the community. The city may see slightly increased revenues from increased fine amounts and more successful prosecutions, but this amount would be negligible due to the relatively low volume of cases of this nature. Staff does not recommend any changes to the intergovernmental agreement with Kane County Animal Control with the expectation that costs associated with said agreement will remain stable.

Staffing Impact:

- Negligible: Police Department personnel are already tasked with conducting enforcement activities related to Title 5 of the Municipal Code Relating to Dogs and Animals in the City of Batavia. While some revisions to the code impose additional requirements on staff, these requirements occur on an infrequent basis and the minor impact to staffing is outweighed by the safety benefit gained by the community.

Staff Recommendation:

- For the Committee of the Whole to discuss and recommend to City Council, at the Tuesday, May 9, 2023 Committee of the Whole meeting, the passage of Ordinance 23-22, "Amending Title 5 of the Municipal Code Relating to Dogs and Animals in the City of Batavia".
- For the City Council to approve Ordinance 23-22, "Amending Title 5 of the Municipal Code Relating to Dogs and Animals in the City of Batavia", at the Monday, May 15, 2023 City Council Meeting.

Attachments:

- Ordinance 23-22 Amending Title 5 of the Municipal Code Relating to Dogs and Animals in the City of Batavia (E. Boula)

Atts.

Copies (w/atts) to: Mayor Schielke
Laura Newman
Scott Buening
Chief Mazza
Deputy Chief Johnson

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 23-22
AMENDING TITLE 5 OF THE MUNICIPAL CODE
RELATING TO DOGS AND ANIMALS IN THE
CITY OF BATAVIA**

**ADOPTED BY THE
CITY COUNCIL OF THE CITY OF BATAVIA ON
THIS 15TH DAY OF MAY, 2023**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This 15th day of May, 2023

Prepared by:

City of Batavia
100 N. Island Ave.
Batavia, IL 60510

CITY OF BATAVIA ORDINANCE 23-22

STATE OF ILLINOIS)
) ss.
COUNTY OF KANE)

CERTIFICATE

I, Kate Garrett, certify that I am the duly appointed and qualified municipal clerk of the City of Batavia, County of Kane, Illinois.

I further certify that on the Corporate Authorities of the above municipality passed and approved Ordinance 23-22, entitled, An Ordinance Amending Title 5 of the City Code relating to dogs and animals, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of this Ordinance, including the Ordinance and cover sheet thereof, was prepared, and a copy of the Ordinance was posted in the municipal building, commencing on _____, 2023 and continuing for at least ten days thereafter. Copies of the Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at Batavia, Illinois, on ____/____/2023

Kate Garrett, City Clerk

CITY OF BATAVIA, ILLINOIS
ORDINANCE 23-22
AMENDING TITLE 5 OF THE MUNICIPAL CODE
RELATING TO DOGS AND ANIMALS IN THE
CITY OF BATAVIA

WHEREAS, the City of Batavia, Kane and DuPage Counties, Illinois (hereinafter “City”) is an Illinois home-rule municipality with the power and authority conferred upon it by the Illinois Constitution; and,

WHEREAS, the City has experienced recurring issues related to unrestrained or aggressive animals;

WHEREAS, these unrestrained or aggressive animals have sometimes resulted in physical injury to people or other animals;

WHEREAS, unrestrained or aggressive animals impact the health, safety, and welfare of the City’s citizenry; and

WHEREAS, the City wishes to protect the health, safety, and welfare of its citizens by minimizing unrestrained or aggressive animals;

WHEREAS, the City Committee of the Whole has voted to recommend approval of Ordinance 23-22 to the City Council; and

WHEREAS, the City Council has reviewed the recommendation of the Committee of the Whole for changes to Municipal Code Title 5; and

WHEREAS, it is in the best interests of the City of Batavia and its residents that the proposed ordinance be adopted by the City Council of the City of Batavia.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

SECTION 1: That Title 5 of the Municipal Code be deleted in whole and replaced as follows:

Chapter 4 ANIMAL CONTROL

5-4-1: DEFINITIONS:

“Animal” means any living, vertebrate or non-vertebrate creature, domestic or wild, not including a person.

“Animal control facility” or “facility” means a facility licensed under the Animal Welfare Act of the state and operated as a repository for the safe keeping and humane care of animals impounded under the provisions of this chapter.

“Animal control officer” means an employee of the City of Batavia who shall have the power and authority to enforce the provisions of this title, including a police officer,

and shall where appropriate be the employee of Kane or DuPage County who implements the provisions of this title pertaining to animals pursuant to an intergovernmental agreement with the City and an animal control agency.

“Cat” means any live male or female cat (*Felis catus*).

“Companion animal” means an animal that is commonly considered to be, or is considered by the owner to be, a pet or service animal. “Companion animal” includes, but is not limited to, canines, felines, and equines.

“Control” means any animal that is either secured by a leash or confined within the property of its owner, or confined within a cage or crate, or confined within a motor vehicle or trailer, or confined to the property of another person with the consent of that property owner.

“Dangerous Nuisance Animal” means any animal which, without provocation, attacks or injures a person or companion animal who or which is peaceably conducting themselves or itself in any place where they lawfully may be. Dangerous Nuisance animal shall also include any animal which, because of its size, vicious propensity or other characteristic, would constitute a danger to human life, property or domestic animals if not restrained or kept in a safe manner.

“Dog” means a live male or female dog (*Canis familiaris*).

“Electronic Collar” means any collar, device, or structure that transmits an electronic signal used to restrain an animal without a physical leash, including an electric fence.

“Electronic Leash” means any device utilized in lieu of a leash that emits an electronic signal and does not have a strap or cord for restraining the animal.

“Euthanize” or “Euthanization” shall mean the putting to death of an animal humanely consistent with accepted practices by a licensed veterinarian.

“Impounded” means having been taken into the custody of the City.

“Leash” means a physical strap or cord for restraining and guiding a dog or other animal and does not include an electronic leash or electronic collar.

“Neutered” means a male or female animal surgically treated by a licensed veterinarian to render it incapable of reproduction.

“Owner” means any person having a right of property in an animal or who keeps or harbors any animal or who has an animal in his care or custody.

“Person” means any individual, firm, corporation, partnership, association or other legal entity.

“Physical Injury” means the impairment of physical condition.

“Serious Physical Injury” means a physical injury that requires hospitalization, creates a substantial risk of death or that causes death, serious protracted disfigurement, protracted impairment of health, impairment of the function of any bodily organ, or plastic surgery.

“Vaccination” means the injection, as approved by the Department of Agriculture of the state, of an antirabies vaccine approved by said Department, with verification thereof consisting of a current certificate and current tag issued in accordance with Illinois statutes, County or City ordinance.

5-4-2: NOT APPLICABLE TO CANINE UNIT

This Chapter shall not be applicable to trained police dogs utilized by an official law enforcement agency and assigned to a sworn peace officer as part of a canine team/unit when performing official duties.

5-4-3: KEEPING OF ANIMALS RESTRICTED

It shall be unlawful to keep or maintain animals considered livestock, including, but not limited to, horses, ponies, mules, cattle, sheep, goats, fowl and poultry other than eight (8) domestic chicken hens, or swine within the City limits at a distance less than two hundred feet (200') from any residence, or any building used in part for a residence, except the residence of the owner or keeper thereof; or at a distance of less than two hundred feet (200') from a lot zoned for residence purposes, or from any street or alley of the City, except honeybees which may be located anywhere on single family residentially zoned lots.

5-4-4: NONDOMESTICATED ANIMALS:

A. No person shall confine in any cage, pen or other enclosure, either in or outside a dwelling or other building, or any place any live animal of any species which is of the class of ferae naturae or non-domesticated within city limits unless otherwise provided in this Chapter or City Code or properly maintained in a zoological park, circus, scientific or educational institution, research laboratory, veterinary hospital, or animal refuge.

B. It is no defense to a violation of this section that the keeper of any animal which is prohibited by this Chapter has attempted to domesticate such animal.

C. The keeping of any such prohibited animal above shall be deemed a nuisance and shall be subject to summary abatement by an animal control officer.

D. Exhibitions or parades of animals which are ferae naturae may be conducted, kept or harbored within the City only after securing a permit from the Chief of Police and/or the City Council.

5-4-5: CRUELTY TO ANIMALS:

No person shall cruelly treat any animal in the City in any way and any person who inhumanely beats, underfeeds, tortures, torments, baits or incites toward fighting, mutilates or cruelly harms any animal, or cause or knowingly allow the same to be done shall be deemed guilty of a violation of this section. Further, no person shall do any of the following:

1. Unnecessarily fail to provide any animal in his charge or custody with proper food, water, air and sanitary shelter, such shelter to be sufficient to provide natural light or artificial illumination during reasonable hours, protection from drafts, reasonable safeguards against chilling and overheating caused by temperatures extremes, and space within that is sufficient for the animal to stand in an upright position and lie down stretched out so that no part of its body need touch the top or sides of the shelter structure;

2. Cruelly force any animal into undue physical exertion;

3. Carry, keep, drive, or cause to be carried, driven or kept, any animal in a cruel manner;

4. Leave for any length of time any animal unattended in a motor vehicle or trailer when the outside temperature is such that the animal may suffer from excessive heat, cold, or physical stress;

5. Have, keep or harbor any animal that is infected with any disease transmissible to other animals or human beings, or that is afflicted with any painful disease or injury, including severe parasitism, unless such animal shall be under the care of a licensed veterinarian;

6. Abandon any animal on any public way or in any place where it may suffer or become a public charge.

5-4-6: ANIMALS LEFT IN MOTOR VEHICLES OR TRAILERS:

1. Owners are encouraged to never leave animals in their motor vehicles or trailers, regardless of the weather conditions.

2. Owners that intend on leaving their animal in their motor vehicle or trailer must provide shade, ventilation, water for hydration, and other reasonable items to ensure their animal's health.

3. No owner or person shall confine any animal in a motor vehicle or trailer in such a manner that places the animal under physical duress by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold.

A. No one shall leave an animal in a motor vehicle or trailer in the following conditions:

(i) Where exposure to heat or cold poses a risk to the health and safety of the animal;

(ii) Weather emergency situations such as tornado watches or warning, significant rainfall with potential for flooding, or blizzard-like conditions;

(iii) Animal control officers or other individuals authorized by law can make reasonable judgements on what constitutes a temperature sufficient to warrant a belief that the health and safety of the animal is at risk and what constitutes a weather emergency.

4. In order to protect the health and safety of an animal, an animal control officer or other person authorized by law, who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle or trailer by any reasonable means under the circumstances after making a reasonable effort to locate the owner. An animal control officer or other person authorized by law may forego a reasonable effort to locate the owner where the officer or other person authorized by law reasonably believes the life of the animal is at imminent risk.

5-4-7: CONTROL OF ANIMAL REQUIRED AT ALL TIMES

Each owner of any animal, other than cats on or near the owner's premises, shall keep such animal exclusively on such owner's premises, except that any such animal may be off the premises if restrained by a leash of sufficient strength to control the animal or other appropriate instrument or physical device other than Electronic collars or electronic leashes and under the direct supervision and immediate control of a person capable of controlling the animal. Electronic collars and electronic leashes shall not be used to control an animal except on the owner's premises.

Each owner utilizing an electronic collar and/or leash to control their animal on their premises shall post conspicuous and adequate signs sufficient to alert any neighboring property owner or individuals utilizing any right of way, sidewalk, street, or other public property that the animal is controlled by an electronic collar and/or electronic leash.

5-4-8: DECLARED NUISANCE

An animal shall be classed as a nuisance, and its owner held in violation of this title, when such animal shall commit and repeat any of the following acts:

1. Chasing, barking at, or otherwise encumbering persons or moving vehicles;
2. Damaging property other than that of the owner;
3. Barking, whining, howling or otherwise emitting loud noises excessively for an extended and uninterrupted period while on the property of the owner or within the confines of the owner's residence or other enclosed building on the owner's property;
4. Creating noxious or offensive odors; and

5. Any other violation of this Chapter.

5-4-9 DANGEROUS NUISANCE ANIMAL

An animal shall be classed as a dangerous nuisance animal, and its owner held in violation of this title, when such animal shall commit any of the following acts:

1. Causing physical injury or serious physical injury to a person;
2. Causing physical injury or serious physical injury to an animal that is on the premises of their owner(s) or that is in control by their owners away from their home premises;
3. Any animal when unmuzzled, unleashed, or unattended by its owner or custodian that behaves in a manner that a reasonable person would believe poses a serious and unprovoked imminent threat of physical injury to a person or a companion animal;
4. Self-defense or provocation shall not be a defense to any provision of this Section.

5-4-10: RUNNING AT LARGE PROHIBITED:

No dog, cat, or other animal shall run at large within the City. Animals which are on any street, alley, sidewalk, or any public place, without being held securely on a leash or under control shall be deemed to be running at large. It shall also be a violation to permit any dog, cat, or animal to run at large on the property of anyone but the owner thereof without the express permission of the other property owner.

5-4-11: EXAMINATION, VACCINATION, AND MICROCHIP REQUIRED:

Every owner or keeper of any dog or cat within the limits of the City shall cause such dog or cat to be microchipped and have all vaccinations required under State law, County, or City ordinance.

5-4-12: NUMBER OF ANIMALS PER HOUSEHOLD:

Unless otherwise provided by this Chapter, there shall be a maximum limitation per household of four (4) dogs or cats with the exception that a litter may be kept for a period of time not exceeding four (4) months from birth. To otherwise exceed this maximum shall be unlawful.

5-4-13: DANGEROUS NUISANCE ANIMAL DETERMINATION & REGULATIONS

1. It shall be unlawful for any dangerous nuisance animal to be unmuzzled, unleashed, or unattended by its owner or custodian.
2. Whenever an animal control officer or police officer determines upon personal observation and investigation that an animal is a dangerous nuisance animal as defined in this Chapter, the officer shall notify the owner of the animal in writing of their determination, the reasons for their determination, the requirements of this Chapter, and

the procedures to appeal the determination of the officer. Notification shall be by personal service or certified mail, return receipt requested.

3. Any owner of an animal which has been determined a dangerous nuisance animal as set forth in this Chapter, may appeal that determination in writing to the Police Chief within seven (7) days of service of the notice. The Police Chief or their designate within fourteen (14) days of receipt of a written appeal shall hold a hearing on whether or not the animal is dangerous nuisance animal. The Police Chief or their designate shall render a decision within seven (7) days of the close of the hearing.

4. All owners of a dangerous nuisance animal shall keep such dangerous nuisance animal confined to the owner's property at all times except as specifically allowed in this Section 5-4-13.

5. All owners of a dangerous nuisance animal shall ensure that a dangerous nuisance animal does not access any private or public property, other than the owner's property or other property with the express consent of the property owner, unless such animal is securely muzzled or caged and under the direct supervision and immediate control of a person capable of controlling the animal.

5. A dangerous nuisance animal shall not be considered confined by use of an electronic leash or an electronic collar.

6. Any dangerous nuisance animal running at large is deemed to be a danger to persons or property. If the animal cannot be immediately and safely captured and taken into custody and impounded may be destroyed by the animal control officer; provided, however, that in all cases where the animal has seized or bitten any person or animal with its teeth or jaws so as to cause a puncture or abrasion of the skin, or where the animal is suspected to be rabid, or where physical injury occurs, no injury should be done to the head of the animal and it is the duty of the person slaying said animal to immediately deliver the carcass to the animal control officer or a licensed veterinarian.

7. Conspicuous and adequate warning by signs shall be installed at the premises on which the dangerous nuisance animal resides so that all persons lawfully in the vicinity of the premises receives adequate warning of any such dangerous nuisance animal which may be confined at the premises.

5-4-14: AUTHORITY TO IMPOUND ANIMALS & PROCEDURES

1. Unrestrained animals, abandoned animals, animals running at large and animals maintained in violation of this Chapter may be taken by the animal control officer to any facility and confined in a humane manner. The animal control officer shall maintain a record of all impounded animals, including, if known, the name and address of the animal's owner, description of the animal, license number, sex of the animal, date of impoundment and the date and manner of notice to the owner of the animal's impoundment.

2. Where an identified animal is impounded, the officer shall notify the owner by telephone or other means of the impoundment and of the procedure to regain custody of the animal. In the event the owner cannot be contacted, the animal will be transferred to

Kane County Animal Control and administered pursuant to the ordinance governing Kane County Animal Control.

5-4-15: INVESTIGATION OF ANIMAL BITES

The Police Department or animal control officer shall investigate reports of animal bites. If an animal has caused physical injury to a person or companion animal, the officer shall notify the owner of the animal and if deemed necessary by the investigating officer, the animal shall be delivered promptly to an Animal Control Facility or licensed veterinarian who shall confine or cause to be confined such animal. If the owner is not known, the officer may take such animal to an Animal Control Facility or a licensed veterinarian to be confined.

5-4-16: DANGEROUS OR VICIOUS DOG

The provisions of Kane County Code of Ordinances, Chapter 5 Sections 5-15 and 5-16, as amended, be and are hereby incorporated by reference.

Visit the Kane County Animal Control's ordinance under Article 5 – Vicious and Dangerous Animals for current information:

<http://www.kanecountypets.com/documents/KCACordinance.pdf>.

5-4-17: REMOVAL OF EXCRETA:

It shall be unlawful for an owner to fail to immediately remove excrement deposited by his/her pet upon the public ways, or within the public places of the City, or upon the property of any other person without that person's consent. When accompanying an animal off of his/her property, the owner or his/her agent shall have on his/her person a plastic or paper bag or container suitable for the removal of such excrement. This restriction shall not apply to a blind person while walking his/her guide dog.

5-4-18: PENALTY & ADDITIONAL REMEDIES

Any person violating Sections 5-4-3 to 5-4-17 or neglecting or refusing to comply with any of the provisions hereof, shall be fined not more than seven hundred fifty dollars (\$750.00), the City's costs, plus court costs for each and every offense. In addition to any fine plus court costs and the City's cost, the City may seek an Order for: 1) the animal to be euthanized at Owner's cost; 2) removal of the animal from City limits at Owner's cost; 3) compelling the animal to be examined, including an examination to determine whether the animal is dangerous or vicious, microchipped, neutered, spayed, and vaccinated at Owner's cost; or 4) any other remedy to abate any nuisance or violation of this Chapter.

5-4-19: STANDARDS FOR KEEPING OF CHICKENS:

A. Up to eight (8) domestic hens may be kept only on properties zoned and occupied for single-family residential use or zoned PFI public facilities and institutional and occupied by schools, public and private, as defined in title 10 of this code, only.

B. Roosters are prohibited in the City limits.

C. No person shall slaughter any chickens in the City limits, except for humane reasons.

D. Hens shall be provided with a covered inside enclosure and an adjacent covered outside fenced area. The outside fenced area shall be no less than thirty-two (32) square feet in area.

E. The enclosures and adjacent fenced area shall be set back:

1. A minimum of one hundred fifty feet (150') from all streets and located not between the principal structures and adjacent streets on properties zoned PFI;

2. Thirty feet (30') from any occupied residential structure on an adjacent property, other than that of the owner; but

3. Not less than the minimum property line setback required for accessory structures in the zoning district.

F. All enclosures shall be constructed and maintained in such a manner as to be free of rodent infestation.

G. A building permit shall be required for all enclosures. The permit fee shall be the same as for a shed.

H. Electric service to enclosures shall not be provided by an extension cord or cords.

I. Hens shall be kept in the enclosure and fenced area at all times.

J. All feed and other items that are associated with the keeping of chickens that are likely to attract or to become infested with rats, mice or other rodents shall be protected in a container with a tightly fitted lid so as to prevent rodents from gaining access to or coming into contact with them.

K. All chickens shall be kept in the rear yard on residential properties.

L. All areas where hens are kept shall be maintained in a neat and clean manner, free of undue accumulation of waste such as to cause odors detectable on adjacent properties.

M. No person shall allow chickens to produce noise loud enough to disturb the peace of persons of reasonable sensitivity, and it is hereby declared a nuisance and shall be unlawful for any person to allow such nuisance to exist.

5-4-20: REGISTRATION AND PENALTIES FOR CHICKENS:

A. All persons keeping chickens in the City shall register with the code compliance officer prior to acquiring the chickens. Registration shall be on a form established by the community development department. Registration forms will not be accepted until the enclosure has passed a final inspection by the building

division. Persons having chickens as of the effective date hereof shall have thirty (30) days to bring their property into compliance with this article.

B. The registration form shall include written permission for any building division staff member to access the rear yard of the residence or to access the school property for the purpose of verifying compliance with this code on a periodic basis. The form shall also acknowledge receipt of a copy of the standards set forth in section 5-4-19 of this article by the person registering.

C. There shall be no fee charged for registration.

D. Failure to notify the Code compliance officer in accordance with this section or failure to allow an inspection in accordance with this section shall constitute a violation of this Code and shall be punishable by a fine of no more than one hundred dollars (\$100.00) plus costs, the amount to be established by the Code Hearing Officer or Court.

E. Violation of any standard in section 5-4-19 of this article shall be punishable by a fine not to exceed one hundred dollars (\$100.00) plus court costs, such fine to be established by the Code Hearing Officer or Court. Each day a violation continues shall be considered a separate offense.

F. Three (3) violations of this section and sections 5-4-19 and 5-4-21 of this article on a property within any twelve (12) month period shall result in loss of permission to keep chickens on the property. Keeping of chickens after permission has been revoked shall be punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) plus court costs, such fine to be established by the Code Hearing Officer or Court. Each day a violation continues shall be considered a separate offense.

5-4-21: CONFLICT WITH PRIVATE COVENANTS:

Nothing in this article shall be construed to permit the keeping of chickens when such activity is prohibited by private covenants, conditions or restrictions governing the use of property, or by rules, regulations or orders issued by the Illinois Department of Public Health or the Kane County Health Department.

SECTION 2: That this Ordinance 23-22 shall be in full force and effect upon its presentation, passage and publication according to the law.

PRESENTED to the City Council of the City of Batavia, Illinois, this 15th day of May, 2023.

PASSED by the City Council of the City of Batavia, Illinois, this 15th day of May, 2023.

APPROVED by me as Mayor of said City of Batavia, Illinois, this 15th day of May, 2023.

CITY OF BATAVIA. ILLINOIS ORDINANCE 23-22

Jeffery D. Schielke, Mayor

ATTEST:

Kate Garrett, City Clerk

| Ward | Aldermen | Ayes | Nays | Absent | Abstain | Aldermen | Ayes | Nays | Absent | Abstain |
|---|-------------|------|------|--------|---------------|----------|------|------|--------|---------|
| 1 | Baerren | | | | | Solfa | | | | |
| 2 | Leman | | | | | Wolff | | | | |
| 3 | Ajazi | | | | | Chanzit | | | | |
| 4 | Malay | | | | | Connelly | | | | |
| 5 | Uher | | | | | Beck | | | | |
| 6 | Cerone | | | | | Lanci | | | | |
| 7 | Vogelsinger | | | | | Miller | | | | |
| Mayor Schielke | | | | | | | | | | |
| VOTE: | | Ayes | Nays | Absent | Abstention(s) | | | | | |
| Total holding office: Mayor and 14 Aldermen | | | | | | | | | | |