



## Snohomish County Council

**Committee:** Planning & Community Development      **Analyst:** Ryan Countryman  
**ECAF:** 2023-0962  
**Topic:** Chickens in residential areas      **Date:** September 5, 2023

### Subject

Informational discussion on chickens, noise, and restrictive covenants.

### Background

**Permitting.** Snohomish County Code allows keeping of chickens as an incidental use to a home in any zone if they are for the consumption or use of the occupants of the home (i.e. being kept for food or as pets).<sup>1</sup> If the occupants of the home are raising chickens for consumption or use by others, then the use may be Small Animal Husbandry.<sup>2</sup> In many contexts, raising chickens at home may also meet the definition of being an agricultural use.<sup>3</sup> Small Animal Husbandry and Agriculture are permitted uses in most zones but may be a conditional use in rare some cases. Appendix A (page 4) includes details on permitting and zoning requirements.

**Noise Control.** In most of unincorporated Snohomish County, sounds caused by chickens are exempt from the noise control requirements in [Chapter 10.01 SCC](#). At all times of day, [SCC 10.01.050\(1\)\(i\)](#) exempts the following:

Sounds caused by pigs, cattle, horses, sheep, goats, and **poultry** in zones where allowed, whether in commercial or noncommercial activities, provided that such sounds shall not be exempt within the area bounded by Puget Sound on the west, the Snohomish county/King county line on the south, 164th Street SE on the north and the Bothell Highway (SR527) on the east. (emphasis added)

Since chickens are a type of poultry, their noises are exempt except for in the area described and in those few instances where not allowed by zoning.

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<sup>1</sup> [SCC 30.22.025](#) provides that incidental uses are “incidental to a conforming permitted, conditional, or administrative conditional use may be placed on lots in conjunction with the permitted, conditional, or administrative conditional use.”

<sup>2</sup> “Small Animal Husbandry” means the raising of mink, fox, nutria, rabbits, pigs, sheep, goats, chickens, turkeys, guinea hens, and similar small animals and fowl not for the primary consumption of or use by the occupants of the premises. ([SCC 30.91S.440](#))

<sup>3</sup> “Agriculture” means tilling of the soil, the raising of crops, horticulture, viticulture, small livestock, poultry, pasturing, grazing, dairying, and/or animal husbandry including all uses customarily incidental thereto. Agriculture includes farming and farm activities, as defined under “farm” herein. ([SCC 30.91A.110](#))

**Restrictive Covenants.** Many neighborhoods have restrictive covenants, which are private contractual provisions that restrict the use and improvement of real property for the general benefit of the neighborhood community. Enforcement of covenants is generally by a Homeowner's Association (HOA) or owners of individual lots through a civil action in the court system. Some of these private covenants include restrictions against keeping chickens in areas where the zoning requirements may otherwise allow chickens. The figures below are an example of such private covenants from a development called Remington Ranch outside of Monroe. The current R-5 zoning for this development would allow chickens as an incidental use to the home, or as agriculture or small animal husbandry. However, the private covenants do not appear to allow chickens. Section 6.17 identifies poultry (which would include chickens) as a nuisance that residents shall not keep in the development. Section 8.2 describes enforcement when there is a breach of the covenants, which allows a civil action by the HOA, or two or more private lot owners, through the court system.

The Snohomish County Sheriff and Planning and Development Services (including the Code Enforcement division) do not enforce private restrictive covenants such as these. This is because the County does not have authority to enforce covenants, which are a private civil agreement between property owners. [See Jones v. Town of Hunts Point, 166 Wn. App. 452, 547 \(2011\)](#) (recognizing that local governments have no authority to enforce or invalidate restrictive covenants). Most covenants include a mechanism for an HOA to revise or amend the covenants at any time.

**Section 6 17 Nuisance.** Nothing shall be done or maintained on any Lot or other residential site which may be or become an annoyance or nuisance to the neighborhood No livestock, animals, poultry or fowl shall be kept on any Lot or other residential site other than animals or birds of the type and species generally recognized as common household pets in the immediate area, such as dogs, cats, canaries and parakeets which are kept on said property solely as household pets, provided that no such household pet which is or becomes an annoyance or nuisance to the neighborhood shall thereafter be kept on any Lot or residential site. No dog houses, dog runs or dog kennels may be placed on any Lot or residential site unless they are screened from the view of neighboring properties and the streets and do not create an annoyance or nuisance. All dogs which become a nuisance by barking at inappropriate hours shall be kept in the residence or garage at night so as to eliminate disturbances related to barking dogs while other residents are trying to sleep

*Figure 1 – Nuisance Section for Remington Ranch (AFN 2005033002343 page 24)*

**Section 8.2. Breach of Covenants** In the event of the violation or breach or attempted violation or breach of any of these covenants, restrictions, limitations, conditions, duly adopted rules and regulations or agreements by any person or concern claiming by, through or under the Owner, or by virtue of any judicial proceedings, Declarant, the Owner of any Lot or the Association, or any of them, jointly or severally, shall have the right to institute, defend or intervene in litigation or administrative proceedings to compel compliance with the terms hereof or to prevent such violation or breach. The Association may be involved in its own name on behalf of itself or two or more Owners on matters affecting the Association, but not on behalf of Owners involved in disputes that are not the responsibility of the Association. In the event of such enforcement the prevailing party shall be entitled to, in addition to other relief, recovery of its attorney fees and costs

*Figure 2 – Breach of Covenants Section for Remington Ranch (AFN 2005033002343 page 32)*

**Authority over County Requirements.** The County Council may adopt code amendments related to chickens provided that those changes do not conflict with other laws or county policies. However, such county code amendments would not change private covenants. For changes in county code or policies related to agriculture and to chickens, at least two different boards and commissions have roles in making recommendations to the County Council as part of the public input process for new ordinances.

The Agricultural Advisory Board (Ag Board) is an advisory body to the County Council, Planning Commission, Hearing Examiner, and County Executive ([SCC 2.06.010](#)). Ag Board advice – ideally a written recommendation from the board – is a requirement for changes to regulations that “in any way affect agricultural issues” ([SCC 2.06.040\(1\)\(b\)](#)). This broad mandate applies to changes regarding noise control for chickens (or poultry more generally) in Chapter 10.01 SCC. The Ag Board’s mandate also clearly applies to any changes related to agriculture in Title 30 SCC and thus arguably applies to chickens as an incidental use in this Title 30 as well. Therefore, before council considers acting on any ordinance affecting either Chapter 10.01 or Title 30 SCC regarding chickens, the council should first refer that ordinance to the Ag Board for a recommendation.

The Planning Commission is an advisory body to the County Council and County Executive on topics involving comprehensive plans (including policies related to agriculture) and development regulations adopted under the Growth Management Act (GMA) ([SCC 2.08.005](#) and [.010](#)). The Planning Commission does not have a review or advisory role for noise control (Chapter 10.01 SCC) regulations because noise control is not under the GMA. In contrast, any changes in Title 30 SCC or to policies in the comprehensive plan affecting agriculture, including chickens, should receive a recommendation from the Ag Board to the Planning Commission before the Planning Commission makes its recommendation to the County Council.

**Table 1. Authorities in Changes Related to Chickens**

Amendments to	Role in Making Changes Regarding Agriculture & Chickens		
	Ag Board	Planning Commission	County Council
<b>Chapter 10.01 SCC (Noise Control)</b>	Advisory to County Council	Not Applicable	Has Enacting Authority
<b>Title 30 SCC (Unified Development Code)</b>	Advisory to Planning Commission and County Council	Advisory to the County Council	Has Enacting Authority
<b>Comprehensive Plan (including policies on agriculture)</b>	Advisory to Planning Commission and County Council	Advisory to the County Council	Has Enacting Authority

## Appendix A. Summary of Permitting and Zoning Requirements

The use matrices (SCC 30.22.100, .110, and .120) use a “P” to indicate when something is a Permitted Use. A “C” indicates a Conditional use, which requires a conditional use permit from the Hearing Examiner. Numbered reference notes lead to SCC 30.22.130 and include additional requirements.

**Table 2. Summary of Use Matrix for Urban Zones (SCC 30.22.100)**

Type of Use	Zone															
	Urban Zones (see <a href="#">SCC 30.22.100</a> )															
	R-9600	R-8,400	R-7,200	T	LDMR	MR	NB	PCB	CB	GC	IP	BP	LI	HI	MHP	UC
Ag.	P	P	P		P	P	P		P	P	P	P	P	P	P	
S.A.H.	C <sup>37</sup>	C <sup>37</sup>	C <sup>37</sup>				P		P	P	P	P	P	P		

**Table 3. Summary of Use Matrices for Rural and Resource and Other zones (SCC 30.22.110 and .120)**

Type of Use	Zone															
	Rural and Resource Zones (see <a href="#">SCC 30.22.110</a> )										Other Zones (see <a href="#">SCC 30.22.120</a> )					
	RD	RRT-10	R-5	RB	CRC	RFS	RI	F	F&R	A-10	SA-1	RC	RU	R-20,000	R-12,500	WFB
Ag.	P	P	P		P	P	P		P	P	P	P	P	P	P	
S.A.H.	P		P		P			P	P	P	P	P	P	P		

([SCC 30.22.130\(37\)](#)) (37) *Small Animal Husbandry*. There shall be a five-acre<sup>4</sup> minimum site size.

When chickens are an agricultural use, all “structures used for housing or feeding animals, not including household pets, shall be located at least 30 feet from all property lines” ([SCC 30.23.040\(37\)](#)). When chickens are an incidental use, i.e., when the resident is keeping them as pets or for personal consumption, then the chicken coop does not need to be 30 feet from the property line. In rare cases where chickens are a small animal husbandry use but not an agricultural use, the Hearing Examiner may apply appropriate coop setbacks from the property line as a condition of approval.

<sup>4</sup> Note that [SCC 30.91F.340](#) defines five acres as “200,000 square feet or 1/128th of a section of land when described as a fraction of a section.” 200,000 square feet is approximately 4.6 acres. A true 5-acres would be 217,800 square feet.