



CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2023 AUG -3 PM 2: 05

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

BZA Application Form

BZA Number: 235827

General Information

The undersigned hereby petitions the Board of Zoning Appeal for the following:

Special Permit: _____ Variance: X Appeal: X

PETITIONER: Robert Filene and Susan Filene, MD C/O Sarah Like Rhatigan, Esq., Trilogy Law LLC

PETITIONER'S ADDRESS: 12 Marshall Street, Boston, MA 02108

LOCATION OF PROPERTY: 117 Chilton St., Cambridge, MA

TYPE OF OCCUPANCY: Two-family residence

ZONING DISTRICT: Residential B Zone

REASON FOR PETITION:

DESCRIPTION OF PETITIONER'S PROPOSAL:


Allow petitioners to keep hens on their residential property.

Zoning violation letter ordering owners to cease and desist from keeping chickens on the property.

SECTIONS OF ZONING ORDINANCE CITED:

Article: 4.000	Section: 4.30 (Table of Uses).
Article: 4.000	Section: 4.13 (Use Regulations).
Article: 10.000	Section: 10.20 (Appeal).
Article: 10.000	Section: 10.30 (Variance).

Original
Signature(s):


(Petitioner (s) / Owner)

Sarah Like Rhatigan, Esq., on behalf of the Petitioners

(Print Name)

Address:

Trilogy Law LLC, 12 Marshall Street, Boston, MA 02108

Tel. No.

617-543-7009

E-Mail Address:

sarah@trilogylaw.com

Date: August 2, 2023

BZA APPLICATION FORM - OWNERSHIP INFORMATION

INSPECTIONAL SERVICES

To be completed by OWNER, signed before a notary and returned to
The Secretary of the Board of Zoning Appeals. 2023 AUG -3 P 3:07

I/We Robert J. Filene and Susan R. Filene
(OWNER)

Address: 115-117 Chilton St., Cambridge, MA 02138

State that I/We own the property located at 115-117 Chilton St.
which is the subject of this zoning application. Cambridge

The record title of this property is in the name of Robert J. Filene AND SUSAN R. Filene

*Pursuant to a deed of duly recorded in the date 8/6/1970, Middlesex South
County Registry of Deeds at Book 11871, Page 437; or
Middlesex Registry District of Land Court, Certificate No. _____

Book _____ Page _____

Susan R. Filene
Robert J. Filene
SIGNATURE BY LAND OWNER OR
AUTHORIZED TRUSTEE, OFFICER OR AGENT*

*Written evidence of Agent's standing to represent petitioner may be requested.

Commonwealth of Massachusetts, County of Middlesex

The above-name Robert J. and Susan Filene personally appeared before me,
this 12 of July, 2023, and made oath that the above statement is true.

My commission expires 9/14/2023 (Notary Seal).



JOSEPH M THEODATE
Notary Public
Commonwealth of Massachusetts
My Commission Expires Sept. 14, 2023

- If ownership is not shown in recorded deed, e.g. if by court order, recent deed, or inheritance, please include documentation.

BZA Application Form

SUPPORTING STATEMENT FOR A VARIANCE

EACH OF THE FOLLOWING REQUIREMENTS FOR A VARIANCE MUST BE ESTABLISHED AND SET FORTH IN COMPLETE DETAIL BY THE APPLICANT IN ACCORDANCE WITH MGL 40A, SECTION 10.

- A)** A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant for the following reasons:

A literal enforcement of the ordinance would require the owners to cease keeping hens who are their beloved pets. Relocating the hens to new owners would be extremely difficult and dangerous to the hens' health. The petitioners, who have lived in Cambridge for 60 years and at 117 Chilton Street since 1970, would be compelled to sell their homes (at 117 Chilton and neighboring rental property on Alpine Street) and move to a chicken-friendly city such as Somerville. The petitioners would also be unfairly deprived of the opportunity to maintain hens under an anticipated zoning amendment to legalize hen keeping currently under consideration by the City Council.

- B)** The hardship is owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located for the following reasons:

The hardship described is due to the unique circumstances where the lot is relatively narrow and flat and surrounded by neighboring lots that look out on its lush urban garden, making it visible to all. These conditions make it more likely that the petitioner's hens have come to the attention of the City Inspectional Services department.

- C)** **DESIRABLE RELIEF MAY BE GRANTED WITHOUT EITHER:**

- 1)** Desirable relief may be granted without substantial detriment to the public good for the following reasons:

As evidenced by the numerous letters of support, the petitioner's hens are beloved by many in the neighborhood and do not cause substantial detriment to the public good. Should this variance be granted, the petitioners would be expected to comply with all future City of Cambridge regulations with respect to the permitting of the keeping of hens on their Property. Thus, the City will be able to ensure that the conditions are safe and do not cause a nuisance.

- 2)** Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this Ordinance for the following reasons:

A variance to allow the petitioners to continue their raising of hens while the City considers an ordinance amendment and regulatory scheme for allowing such activities may reasonably be granted as consistent with the intent and purpose of this ordinance.

***If you have any questions as to whether you can establish all of the applicable legal requirements, you should consult with an attorney.**

BZA Application Form**DIMENSIONAL INFORMATION**

Applicant: Robert Filene and Susan Filene, MD
Location: 117 Chilton St., Cambridge, MA
Phone: 617-543-7009

Present Use/Occupancy: Two-family residence
Zone: Residential B Zone
Requested Use/Occupancy: Two-family residence

		<u>Existing Conditions</u>	<u>Requested Conditions</u>	<u>Ordinance Requirements</u>	
<u>TOTAL GROSS FLOOR AREA:</u>		3,042	3,042	1,800	(max.)
<u>LOT AREA:</u>		3,600	3,600	5,000	(min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA: ²</u>		0.85	0.85	0.50	
<u>LOT AREA OF EACH DWELLING UNIT</u>		1,800	1,800	2,500	
<u>SIZE OF LOT:</u>	<u>WIDTH</u>	40	40	50	
	<u>DEPTH</u>	90	90	n/a	
<u>SETBACKS IN FEET:</u>	<u>FRONT</u>	14	14	15	
	<u>REAR</u>	30	30	25	
	<u>LEFT SIDE</u>	12	12	7.5/sum 20	
	<u>RIGHT SIDE</u>	5	5	7.5/sum 20	
<u>SIZE OF BUILDING:</u>	<u>HEIGHT</u>	35	35	35	
	<u>WIDTH</u>	46	46	n/a	
	<u>LENGTH</u>	23	23	n/a	
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u>		0.60/0.60	0.60/0.60	0.40/0.20	
<u>NO. OF DWELLING UNITS:</u>		2	2	1 (max) per min. lot area/dwelling unit)	
<u>NO. OF PARKING SPACES:</u>		1	1	0	
<u>NO. OF LOADING AREAS:</u>		0	0	0	
<u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u>		n/a	n/a	H+H/6	

Describe where applicable, other occupancies on the same lot, the size of adjacent buildings on same lot, and type of construction proposed, e.g.; wood frame, concrete, brick, steel, etc.:

Two movable chicken coups with wire cage runs.

1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS).
2. TOTAL GROSS FLOOR AREA (INCLUDING BASEMENT 7'-0" IN HEIGHT AND ATTIC AREAS GREATER THAN 5') DIVIDED BY LOT AREA.
3. OPEN SPACE SHALL NOT INCLUDE PARKING AREAS, WALKWAYS OR DRIVEWAYS AND SHALL HAVE A MINIMUM DIMENSION OF 15'.











July 23 2023

Amer Koudsi
617-510-6080
115 Chilton Street
Cambridge, MA 02138

Greetings Cambridge City Government and Administration,

I was recently dismayed to hear that our friends and neighbors at 117 Chilton St., Bob and Sue Filene, received a letter from you ordering them to remove their chickens due to "complaints". I live in the closest proximity to the chickens of any neighbor and I assure you ***there are NO complaints.***

The chickens have never bothered me and there are no problems with the chickens. They have been here for years with no issues and it would be cruel of you to remove them. These are beloved pets that have been well taken care of.

Many (if not all) neighboring cities have passed ordinances allowing chickens. Must we always be falling behind Somerville in regards to innovative legislation?

I like The Filenes' chickens and want the chickens at 117 Chilton to stay. Dogs and even Blue Jays cause more disturbances than the chickens and I hope you wouldn't suggest we also remove these from our neighborhood. Don't take the chickens away. We like having them. They are not causing any problems.

Respectfully,

A handwritten signature in blue ink that reads "Amer Koudsi". The signature is cursive and fluid, with the first name "Amer" and last name "Koudsi" clearly distinguishable.

Amer Koudsi
617-510-6080
115 Chilton Street
Cambridge, MA 02138

July 23, 2023

To the City of Cambridge Government Administration and Board of Appeals,

I am writing to express my enthusiastic support for Sue and Bob Filene keeping chickens at 117 Chilton St.

As a tenant in Bob and Sue Filene's home, with our rooms directly facing the backyard, the chickens being here bring a tremendous amount of joy to our day along with being an integral part to the urban farming that my husband and I feel extremely lucky & thankful to participate in. These chickens provide numerous benefits such as fresh eggs, fertilizer, pest control, and entertainment, to a strong sense of agricultural community within the hustle and bustle of city life. The chickens are quiet & clean and Sue and Bob do a truly outstanding job of taking care of the birds and their coops every single day.

I absolutely LOVE having chickens here and they are a major perk and essential part of this gorgeous, inspirational space that Sue and Bob have lovingly created.

Thank you for your time,

Laura Stenzel
115 Chilton St, Cambridge, MA 02138
617.275.9015

From: Rick Mueller rick.ipswich@gmail.com
Subject: Filene 117 Chilton Street
Date: July 23, 2023 at 3:10 PM
To: sarah@trilogylaw.com

RM

To the Cambridge Zoning Board
Richard Mueller
121 Chilton Street Cambridge

I would like to advocate for the Filene's and their chickens. I live next door, on the third floor right above their coop and chickens. I would notice if there was an odor or sound issue. There are none. I appreciate having the chickens next door and advocate for any regulations to promote urban farming.

Richard Mueller
121 Chilton Street
Cambridge

From: George Hutchinson hutch1326@gmail.com
Subject: Chicken coop 117 Chilton St
Date: July 23, 2023 at 4:26 PM
To: sarah@trilogylaw.com



The Filene's are some of the best neighbors I have on the street. The urban farm they take care of is well kept. The chickens are housed in a very safe and well kept environment. There are no sounds from them that are a disturbance. Please allow the chickens to stay where they are well kept, safe, and happy with the Filene's at 117 Chilton Street.

George Hutchinson
118 Chilton St. Cambridge MA 02138

From: Beverly Hutchinson bevhutch4227@gmail.com
Subject: Chicken coop 117 Chilton St
Date: July 23, 2023 at 4:35 PM
To: sarah@trilogylaw.com



I have lived across the street from the Filene's for over 50 years. They have always kept their property at 117 Chilton St. in clean and well groomed condition. Over the past 6 years, things have not changed. They have a well maintained urban garden and chickens. The chickens are uplifting and a warm addition to the neighborhood. Living in the city, you hear horns, sirens, and car alarms that go on for several minutes at a time. To hear the sounds of a happy chicken puts a smile on your face. The children and parents love to stop by and have Sue let them in the yard and see them. The Filene's keep them clean and safe. They should be allowed to keep the chickens in their yard. They do not cause any problems.
Beverly Hutchinson
118 Chilton St, Cambridge, MA 02138

ELIZABETH HOPE CUSHING, Ph.D.
LANDSCAPE HISTORIAN

56 GROZIER ROAD
CAMBRIDGE, MA 02138-3315
TEL: 617-354-2468

EMAIL: elizabethhopecushing@alum.bu.edu gmail.com


20 July 2023

To the Cambridge City Council:

I write to support the appeal of Susan and Robert Filene to the City Council that would allow them maintain the chickens they possess as part of their urban farm at 117 Chilton Street, Cambridge, Massachusetts. Not only are the Filenes outstanding members of the community, they are thoughtful and conscientious citizens. As part of Susan Filene's mission of conscience for our community, and for the environment in general, she has spent the last years developing the concepts of urban farming for herself and her family. She has also included the larger mission of presenting those concepts to her community. This should be encouraged and supported in every way possible.

Part of that mission is providing as much as possible for their own needs, including growing food, and the maintenance of chickens. In that capacity Susan has create an attractive chicken habitat that is pristine in nature, surrounded by plants, and unobtrusive in every way. I was born and raised in the country; I have seen many active chicken habitats (including our own), but (quite literally) never have I seen such a clean, attractive, quiet, and odorless environment as the Filenes have created.

Many of the communities around us allow chicken-keeping, and I am aware that an ordinance pertaining to that was produced but not presented to the City Council as long as seven years ago. Why are you hesitating? Please support a variance for the Filenes, but also act as soon as possible to make the opportunity to keep chickens responsibly available to all Cambridge residents.

Sincerely,

Elizabeth Hope Cushing

From: Judy Perlman judy.m.perlman@gmail.com
Subject: Filene's chickens
Date: July 24, 2023 at 8:05 AM
To: sarah@trilogylaw.com
Cc: Bob Filene bob@bobfilene.com, Susan Filene susanfilene@gmail.com



Dear Ms. Rhatigan --

My backyard is adjacent to the Filene's. I'm one of their closest neighbors and am writing to support their efforts to keep their chickens.

The chickens have never bothered me. I work from home, and their occasional clucking is not a problem in any way. There is no smell, my enjoyment of my yard is not affected in any way, and they are contributing by eating pests and improving the soil in which food is grown. I know that the Filenes have worked hard to minimize other animals' access to the chickens' food.

I like having chickens in this community, and I would be sorely disappointed if they were removed. Many surrounding communities have enacted legislation to support chicken-keeping and I support efforts to do so in Cambridge; while this moves through the process I think the Filenes should be allowed to keep their chickens.

Thank you for your efforts, and please don't hesitate to reach out for more information.

--

* * * * *

Judy Perlman
48 Alpine Street
Cambridge, MA 02138
[m] 617 308 7369
Pronouns: She/her
judy.m.perlman@gmail.com
www.judyperlmanconsulting.com
www.meettheproblemsolvers.com

From: Keld Lundgaard keld.lundgaard@gmail.com
Subject: Support for the Chickens 117 Chilton St
Date: July 24, 2023 at 11:22 PM
To: sarah@trilogylaw.com

KL

Hi Sarah,

I heard that you are working with Sue and Bob to ensure that they don't lose their chickens.

My wife and I are the neighbors to Sue and Bob, living at 113 Chilton St for 2 years. We can see down in their backyard where they have their chickens and we would be really sad to see the chickens go as they are a delight to live next to and hear during the day. We have never been bothered by smell, noise, or other problems. We fully support their chicken husbandry.

Best regards,
Keld Lundgaard
113 Chilton St, Cambridge, MA 02138

From: Melissa Bruce melissab@fayerweather.org
Subject: Chickens at 117 Chilton St (letter of support)
Date: July 27, 2023 at 9:06 AM
To: sarah@trilogylaw.com
Cc: jsbrucework@gmail.com

MB

Dear Sarah,

We are neighbors of Sue and Bob Filene, and have included a letter below in support of their chickens. Please let us know if there is a better format to send. Thank you!

Best,
Melissa and John Bruce

To the Cambridge Zoning Board:

We are residents at 121 Chilton Street, neighbors of Sue and Bob Filene who live at 117 Chilton Street. In the eight months we have lived here, we have never been bothered by their chickens. On multiple occasions, we have been welcome into their backyard to visit the chickens with our 18 month old daughter. The chickens are well taken care of, there is no smell, and we aren't bothered by any noise. We want the chickens to stay.

Please let us know if you have any questions, and we appreciate your consideration of this letter in support of the Filenes.

Sincerely,
Melissa and John Bruce
121 Chilton St
Cambridge, MA

From: Ariane Curtin-Bowen aecbowen@gmail.com
Subject: Robert & Sue Filene
Date: July 28, 2023 at 3:16 PM
To: sarah@trilogylaw.com



Hello,

I'm a neighbor of Bob and Sue Filene at 117 chilton st. We are the ground floor neighbors at 119 chilton st, and probably the neighbors physically closest to the chicken coop that they have in their backyard. I'm writing in support of the chickens, who (while occasionally a bit noisy while laying) are on the whole completely harmless. Bob and Sue seem like thoughtful people with a deep interest in urban farming. I wish more people had the dedication to their outdoor space that the Filenes do. Their chickens should stay.

Thanks,

Ariane Curtin Bowen & Rohan Edwards

From: Ali Kruger origin.alison@gmail.com
Subject: Response to Filene's Cease and desist order
Date: July 24, 2023 at 9:48 PM
To: sarah@trilogylaw.com

AK

Hi Sarah,

I am writing in support of the chickens at 117 Chilton Street. My house abuts the 117 Chilton property and except when I look for the chickens, I don't even know the chickens are there.

I even cheerfully refer to the birds when friends come to visit as 'rather well-behaved chickens,' and very much like seeing the birds as part of the garden beds out my young daughter's window. Please know that I am glad the chickens are there and hope they can stay.

Alison Kruger
50 Alpine Street

Pacheco, Maria

From: Karen Ellis <k.suz.ellis@gmail.com>
Sent: Wednesday, August 23, 2023 3:33 PM
To: Pacheco, Maria
Cc: Seth Tasker
Subject: 117 Chilton Street - Order to Remove Chickens

To the Cambridge Zoning Board,

We understand our neighbors, Bob and Susan Filene, have received a City of Cambridge Order to remove their chickens from 117 Chilton Street and are writing in their support in asking for a variance to keep their chickens. We have lived at 120 Chilton St - just across the street from the Filene's - since 2018. We have never had an issue with their keeping chickens. They are a very responsible couple who take very good care of the chickens they raise. We have never had any noise or smell issues in the past 5 years of living on Chilton. Actually our 1 year old daughter is dying to visit them as she is a big animal lover!

Please consider issuing a variance to allow the Filene's to keep their chickens. Thanks for your consideration.

Karen Ellis and Seth Tasker

Pacheco, Maria

From: Helen Ramey <htramey@gmail.com>
Sent: Tuesday, August 29, 2023 12:09 PM
To: Pacheco, Maria
Cc: bob@bobfilene.com
Subject: Chickens at 115-117 Chilton Street

Dear City of Cambridge,

I am the owner of 119-121 Chilton Street, a two-family house that abuts Sue and Bob Filene's house at 115-117 Chilton Street. I do not live in the property on Chilton Street.

The Filene's have chickens in the yard and should be allowed to keep them. The tenants in my house have already written letters in support of the Filenes and their hens.

I agree that the Filenes should be allowed to keep their chickens.

Sincerely,

Helen T. Ramey

 An official website of the United States government [Here's how you know](#)



115 Chilton St

Property Information

Property Class	TWO-FAM-RES
State Class Code	104
Zoning (Unofficial)	B
Map/Lot	263-6
Land Area (sq. ft)	3,600

Property Value

Photos



Sketches

Year of Assessment	2023
Tax District	R8
Residential Exemption	Yes
Building Value	\$778,600
Land Value	\$787,000
Assessed Value	\$1,565,600
Sale Price	\$0
Book/Page	11871/437
Sale Date	August 6, 1970
Previous Assessed Value	\$1,476,300

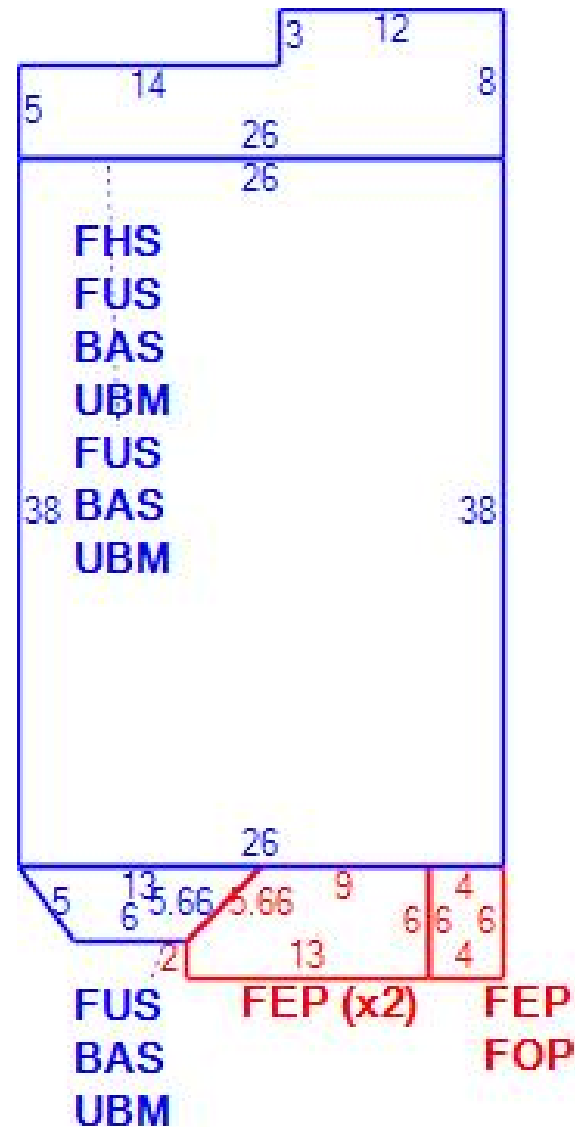
Owner Information

Owner(s)	FILENE, ROBERT J.& SUSAN R FILENE 117 CHILTON ST CAMBRIDGE, MA 02138-6844
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Building Information

Residential Building Number 1, Section 1

Exterior



Style	OLD STYLE TWO FAM
Occupancy	TWO-FAM-RES
Number of Stories	2.5
Exterior Wall Type	Asbestos Shingl
Roof Type	Gable
Roof Material	Asphalt Shingl

Interior

Living Area (sq. ft.)	2,878
Number of Units	2
Total Rooms	15
Bedrooms	6
Kitchens	2
Full Baths	3
Half Baths	1
Fireplaces	0

Systems

Heat Type	Hot Water
Heat Fuel	Gas
Central A/C	No

Condition & Grade

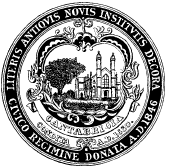
Year Built	1895
Interior Condition	Good
Overall Condition	Good
Overall Grade	Average

Parking

Open Parking	2
Covered Parking	0

Subareas

Code	Description	Gross Area	Living Area
BAS	First Floor	1,192	1,192
FEP	Porch, Enclosed	164	0
FHS	Half Story, Finished	988	494
FOP	Porch, Open	24	0
FUS	Upper Story, Finished	1,192	1,192
UBM	Basement	1,192	0
Total:		4,752	2,878














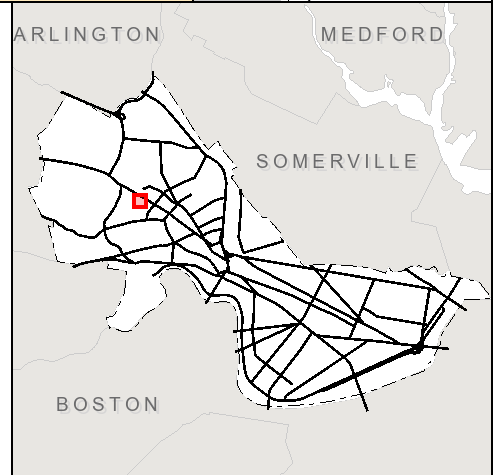
City of Cambridge
Massachusetts

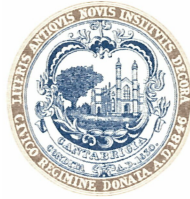
$$1'' = 35 \text{ ft}$$

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www.cambridgema.gov/gis

- Adresse
- Rail
-  Building Footprints
-  Parcels
- Paved Surfaces
 -  Paved Roads
 -  Bridges
 -  Unpaved Roads
 -  Unpaved Parking
 -  Sidewalks
 -  Driveways
 -  Alleys
 -  Other Paved Surface
 -  Public Footpath





CAMBRIDGE CITY COUNCIL

Quinton Y. Zondervan
City Councillor

To Whom It May Concern,

July 21, 2023

It has come to my attention that a cease and desist letter has been issued to Robert and Susan Filene of 117 Chilton St. in regards to their illegal keeping of chickens. I have had the opportunity to visit the Filene's and observe their chicken keeping practices. In my humble opinion, their chicken keeping does not present a nuisance or safety hazard to their neighbors, nor did I see any signs of rodent activity, and I did not detect any noxious odors or excessive noise.

While it is indisputable that chicken keeping is not allowed in Cambridge, it has been tolerated for many years, and the Urban Agriculture Task Force has been discussing legalizing chicken keeping in Cambridge since at least 2017. It would be unfair and unjust to single out the Filene's for enforcement when other residents are allowed to keep their chickens.

As this current state of affairs is intolerable and undesirable, I intend to introduce at the City Council summer meeting on August 7, proposed legislation to legalize chicken keeping in Cambridge, based on the work of the Urban Agriculture Task Force. I therefore respectfully request that all enforcement action regarding chicken keeping, except any active nuisance or unsafe situations, be stayed until the City Council has had the opportunity to discuss and decide the matter of legalizing chicken keeping this fall.

With gratitude for your attention to this important matter, sincerely,

A handwritten signature in black ink, appearing to be "Q. Zondervan", written in a cursive style.

Quinton Y. Zondervan
City Councillor
Cambridge, Massachusetts

Cc: Cambridge Delegation

To the Board of Zoning Appeals from Susan and Robert Filene, 117 Chilton Street.

We are appealing the order to remove our chickens from 117 Chilton Street. In the alternative, we are asking for a variance to keep chickens until such time as chickens are allowed in Cambridge, or until our deaths, whichever comes first. We believe that we are an example of best practices of urban chicken-keeping. In the six years that we have kept chickens we have had no complaints from neighbors and were, therefore, surprised to receive an order from the city in early July to remove the chickens from our property.

We have been Cambridge residents for 60 years and have lived at 117 Chilton Street for 53 years. When we moved to our house, the yard was covered with poor soil and weeds. Susan has a background in gardening and farming and has worked over the years to improve our soil and to grow food, flowers and herbs. We now have a robust urban farm.

Six years ago, we added chickens. The chickens are an integral part of farming here. Besides providing eggs, their composted manure provides all of our potting soil and soil to enrich raised beds. They free range for one supervised hour each day during which time they eat slugs, mosquito larvae, and ticks. In short, they are beneficial to the ecosystem.

We had followed the City Council discussions regarding the keeping of chickens in Cambridge and had hoped that the City of Cambridge would have passed an ordinance and regulations by now as we had expected. We know other Cambridge residents who are keeping chickens and doing so without issues.

Keeping chickens in a small urban space was new to us, so we began with help from a nationwide organization, Rent the Chicken. In 2017, they brought us a small, standardized coop, two chickens, food, a feeder and waterer, bedding, oyster shells, and chicken treats. They set up the coop in our yard and we added a small fenced run. They required us to buy and read a book about chicken care and were available by phone to answer questions. In November, they took the chickens back to their farm for the winter. In spring they returned the two chickens and we have had them year-round since. Eventually, we built our own walk-in coop and walk-in wire run to ease our backs and to accommodate more chickens.

Over the years we added four additional chickens. One of our oldest, a Rhode Island Red, died peacefully last spring. She lived a year longer than the average lifespan for her breed. The other aging hens still lay enough eggs for what we consume.

Last fall we added two young chickens. These live in a separate, small coop and are cared for by our tenants, one of whom has a degree in Urban Agriculture. There are two reasons for separate coops. First, the older hens will gang up on and injure the young ones. Second, the older chickens now eat a different feed which is easier for them to digest. They also receive probiotics and vitamins, formulated for older hens, in their

water. Both coops and runs are secure against critters. Coop and run floors are covered with salt marsh hay and chopped straw and are cleaned every morning. Manure is composted in secure bins. The coops have fans for hot weather and heated water bowls for winter. In summer, we put ice in the waterers and in winter they eat cracked corn in the evening to help warm them overnight. The two flocks have access to a large dust bath which is necessary for their grooming behavior.

We are hoping that the Board will either grant our appeal of the Inspectional Services cease-and-desist order or alternatively grant us this variance because the alternative will be that we will leave Cambridge to live in a chicken-friendly city. After 53 years in this home, where we raised our two sons, and in our 82nd years of life, it would be a major undertaking for us to begin rebuilding our lives and an urban farm in another city. If we remain here, we can serve as a resource for those who want to raise chickens when, we hope, the ordinance passes.



City of Cambridge
Inspectional Services Department
831 Massachusetts Avenue
Cambridge, MA 02139

Peter McLaughlin
Acting Commissioner

July 6, 2023

BY REGULAR MAIL AND CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Robert J. Filene & Susan R. Filene

117 Chilton Street

Cambridge, MA 02138

RE: Chickens at 117 Chilton Street, Cambridge, MA

Dear Mrs. & Mr. Filene,

We are receiving complaints regarding the keeping of chickens at the property 117 Chilton Street Cambridge, MA. Pursuant to Article 4, Section 4.30 of the Cambridge Zoning Ordinance, livestock is not allowed in the City. Please cease and desist this activity immediately. Failure to comply with this order will result in further action, including court action and/or fines of up to \$300 per day, pursuant to Article 9, Section 9.16 of the Cambridge Zoning Ordinance.

You have the right to appeal this decision to the Board of Zoning Appeal within 30 days from the date of this letter, pursuant to Article 10.00, Section 10.20 of the Cambridge Zoning Ordinance.

If you have questions, please contact Olivia Ratay, Zoning Specialist, at (617) 349-6110. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "P. McLaughlin", written over a horizontal line.

Peter McLaughlin

Acting Commissioner

August 2, 2023

VIA Hand Delivery

Board of Zoning Appeal
City of Cambridge
831 Massachusetts Avenue
Cambridge, MA 02139

Re: BZA Case #235827 -2023 – 117 Chilton Street, Cambridge, MA

Dear Members of the Board:

This firm represents the petitioners, Robert J. Filene and Susan R. Filene, MD, who have owned and resided in the two-family home located 117 Chilton Street since 1970. This is an appeal of a zoning enforcement letter issued by Mr. Peter McLaughlin, Acting Commissioner of Inspectional Services on July 6, 2023. The July 6th letter, a copy of which is attached hereto, cited the Filenes for keeping chickens at their property, stating that “[p]ursuant to Article 4, Section 4.30 of the Cambridge Zoning Ordinance, livestock is not allowed in the City.”

As reasons for this appeal, the petitioners ask this Board to consider the following factors in determining whether the Filenes should be required to remove or dispose of their chickens:

a) The City Council is presently considering a zoning amendment that would legalize the keeping of hens citywide. See Letter of support from Councilor Quinton Zondervan;

b) The City of Cambridge Public Health Department has drafted proposed Standards for the Keeping of Hens, that describe best practices which the Filenes are currently following;

c) The cease and desist order enforced in this instance would result in a great injustice and hardship for the owners who are in their 70s and derive great pleasure and comfort in having chickens as their pets; and

d) The petitioners have the overwhelming support of their neighbors, including the most impacted abutters, as evidenced by the numerous letters of support, attached to this appeal.

We also note that the legal status of chicken-keeping within the City of Cambridge is not entirely clear. There is nothing in the municipal ordinance that specifically prohibits the keeping of “livestock” (or chickens, poultry, or hens). Section 4.13 generally prohibits uses not expressly listed in the Section 4.30 Table of Uses. However, where an activity has historically been seen as incidental to residential living, we would urge this Board to find that the general language of Section 4.31 should not be construed so broadly so as to prohibit the Filenes from keeping their backyard hens.

The owners respectfully ask this Board to vacate the cease-and-desist order at this time, while the City Council takes up consideration of this revision to the Cambridge Zoning Ordinance.

Thank you for your consideration.

Sincerely,

Sarah Like Rhatigan, Esq.

Enclosures

CC (via email): Mr. Robert J. Filene
 Susan R. Filene, MD

117 Chilton St

Petitioner

260-19
PREER, ROBERT M. JR., &
EILEEN T. HART, TRUSTEES
P.O BOX 44507
AURORA, CO 80044

260-56
HULL, ELIZABETH MARRAN
C/O ELIZABETH MARRAN
44 ALPINE ST.
CAMBRIDGE, MA 02138-6811

TRILOGY LAW LLC
C/O SARAH LIKE RHATIGAN, ESQ.
12 MARSHALL STREET
BOSTON, MA 02108

260-55
FILENE, ROBERT J. SUSAN R FILENE
117 CHILTON
CAMBRIDGE, MA 02138-6844

263-5
RAMEY, HELEN T.
121 CHILTON ST
CAMBRIDGE, MA 02138

263-42
HUTCHINSON, GEORGE E., SR.,
TR THE HUTCHINSON CHILTON TRUST
118 CHILTON ST
CAMBRIDGE, MA 02138

263-6
FILENE, ROBERT J. & SUSAN R FILENE
117 CHILTON ST
CAMBRIDGE, MA 02138-6844

263-43
TASKER, SETH & KAREN MCNAMARA
120 CHILTON ST
CAMBRIDGE, MA 02138

263-133
DEO NISHA KULKARNI TEJAS
111 CHILTON ST
CAMBRIDGE, MA 02138

260-20
RICHARDS, STEWART A. & NANCY J. RICHARDS
368 CONCORD AVE. UNIT 2
CAMBRIDGE, MA 02138

263-4
CHRISTINE R. BAKER & DAVID A. BAKER
365 CONCORD AVE
CAMBRIDGE, MA 02138

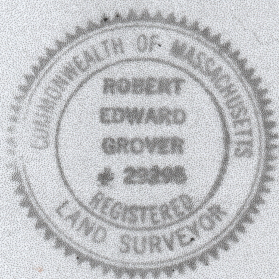
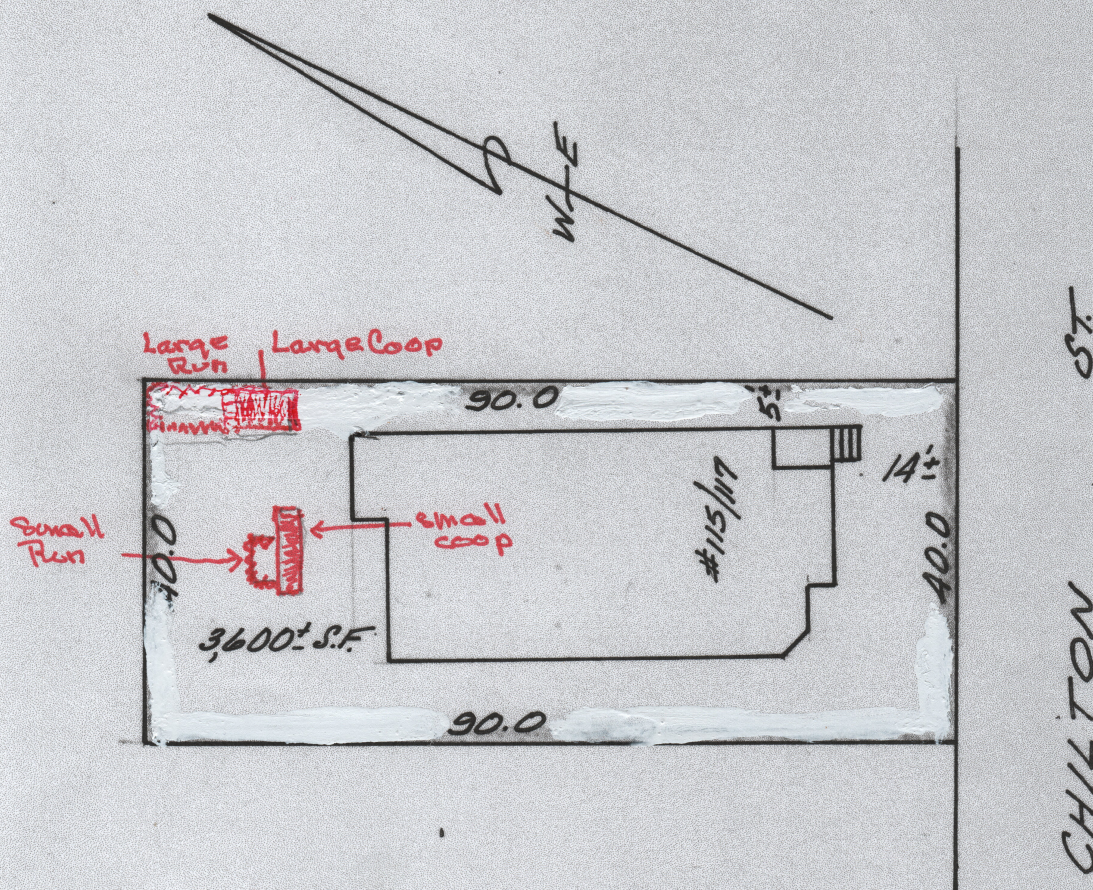
260-20
MARICICH, YURI & BRIDGET MARICICH
368 CONCORD AVE. UNIT 1
CAMBRIDGE, MA 02138

263-134
KIM YOUNG
113 CHILTON ST
CAMBRIDGE, MA 02138

260-54
MENZIN NANCY W TRS MENZIN REALTY TR
56 ALPINE ST
CAMBRIDGE, MA 02138

263-41
LEGARE, CHANTALE
116 CHILTON ST
CAMBRIDGE, MA 02138

This plot plan was not made from an instrument survey and is for the use of the bank only. Under no circumstances are offsets to be used for establishing property lines or constructing fences, etc.



PLOT PLAN OF LAND
IN
CAMBRIDGE
MARCH 1, 1986 SCALE: 1"=20'
PREPARED BY J & B SURVEY

I certify that the building on this property is located on the ground substantially as shown, and that it conformed to the zoning laws of this City when constructed. This lot is not on the flood plain.

Robert E. Grover
204 Beech Ave, Melrose



Cambridge
Public Health
Department

CAMBRIDGE PUBLIC HEALTH DEPARTMENT REGULATION FOR THE KEEPING OF HENS

WHEREAS, the Cambridge Public Health Department promotes healthy eating, local food resiliency, and sustainable local food initiatives; and

WHEREAS, the keeping of hens provides local egg production; and

WHEREAS, minimum standards are necessary to promote the responsible care and welfare of hens to minimize disease transmission; and

WHEREAS, minimum standards are necessary to protect the health, safety, and welfare of local residents and the environment;

NOW THEREFORE, the Cambridge Public Health Department promulgates the following regulation to protect the health and quality of life of Cambridge residents, workers, students, and visitors.

Section 1. Purpose

The purpose of this regulation is to protect the public health of Cambridge residents, workers, students, and visitors while promoting healthy and safe local food access through support of urban agriculture initiatives.

Section 2. Authority

This regulation is adopted under the authority of M.G.L c.111 §31 and §122.

Section 3. Definitions

Abutter: shall mean the owners or tenants of the property which adjoins the lot upon which hens will be kept, whether or not said properties are separated by a public way

Chicken: shall mean any breed of the domestic species *Gallus gallus domesticus*

Coop: shall mean a structure for the keeping or housing of hens

Hens: shall mean a domestic female chicken of the species *Gallus gallus domesticus*



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Henhouse: shall mean an enclosed structure or coop for hens (see also “coop”)

HPAI: shall mean Highly Pathogenic Avian Influenza

Manure Management Plan: shall mean a plan for the handling of manure. The plan shall address cleaning, composting, storage, utilization and removal of manure

MDAR: shall mean the Massachusetts Department of Agricultural Resources

MDPH: shall mean the Massachusetts Department of Public Health

MSPCA: shall mean the Massachusetts Society for the Prevention of Cruelty to Animals

Noise: shall mean sound of sufficient intensity and/or duration as to (a) cause a nuisance, (b) is injurious or, on the basis of current information potentially injurious to human health, or (c) unreasonably interferes with the comfortable enjoyment of life and property

Owner: shall mean the permit holder and/or the person who keeps and maintains hens (hen keeper)

Pen: shall mean the enclosed outdoor space for hens (see also “run”)

Pest: shall mean any unwanted creature, including vermin, that would seek access to chicken feed, such as mice or rats

Pest Management Plan: shall mean a plan that adequately defines measures that shall be taken by the hen owner to minimize the presence of rodents, insects, and predators

Predator: shall mean any creature that would seek to harm or consume hens

Property owner: shall mean every person who alone or severally with others: (1) has legal title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or (2) has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (3) is a mortgagee in possession of any such property; or (4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or (5) is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. Owner also means every person who operates a rooming house.

Public health nuisance: shall mean unreasonable interference with or that which is injurious to the health, safety, hygiene, and comfort of the general public. Public health nuisance conditions include



CAMBRIDGE PUBLIC HEALTH DEPARTMENT REGULATION FOR THE KEEPING OF HENS

but are not limited to that which is unsanitary, by means of accumulation of organic waste, combustible or non-combustible inorganic waste materials, or contributes to disease transmission, noise, odor, or other filth or health hazards. See also M.G.L c.111 §122.

Rooster: shall mean a male chicken of the domestic species *Gallus gallus domesticus*

Run: shall refer to pen and/or a completely enclosed outdoor area designed to allow hens access to the outdoors while providing protection from pests and predators

Runoff: shall mean water from natural or unnatural sources that flow over the surface of the ground

Unsanitary Conditions: shall mean any condition that is conducive to or results in a disease transmission pathway, is injurious or potentially injurious to human health, or reasonably interferes with the health and safe enjoyment of life and property. Unsanitary conditions may include, but are not limited to the following: filth, public health nuisance, the presence or attraction of vermin or pests, breeding of insects, offensive odors, rodent infestation, runoff, and noise.

Vermin: shall refer to rodents and insects, including disease vectors such as flies and mosquitos

Section 4. Application & Permits

1. No person shall keep hens in Cambridge without first obtaining a permit from the Cambridge Public Health Department.
 - a. Each applicant shall submit a site plan review application to the Department which must include the following items:
 - i. Applicant name and contact information
 - ii. Scale drawing (hand drawn or electronic) which includes the following information:
 1. Size of the lot/property
 2. Proposed location and exact dimensions of coop and pen
 3. Location of existing structures on property, including fences, and indication of distance of coop and pen from all abutters
 4. Proposed location of food and water, and feed storage
 - iii. Details regarding the proposed structure and construction of coop and pen, including type and nature of building materials and hardware needed
 - iv. Manure management plan
 - v. Pest management plan



CAMBRIDGE PUBLIC HEALTH DEPARTMENT REGULATION FOR THE KEEPING OF HENS

- vi. Proposed number of hens and estimated square footage per hen for the coop and pen
 - vii. Written (signed) consent of property owner of record
 - viii. Written (signed) statement from hen keeper (applicant), which shall include:
 - 1. An agreement to not abandon hens in case of rental contract termination or sale of property; and
 - 2. A written contingency plan to transfer ownership of hens(s) to another owner or sanctuary if necessary; and
 - 3. Acknowledgment that hens cannot be surrendered to Cambridge Animal Control at any time
 - b. Total number of proposed hens shall comply with Cambridge Zoning Ordinance requirements
 - i. Any request for a variance shall be submitted in writing to the Department and be subject to Department approval (see section 12.00)
 - c. Application Review
 - i. The Department will review complete applications and may require additional information or clarifying statements to aid in review of application or suggest modifications to plans for final approval
 - ii. The applicant shall notify abutting neighbors of application via certified letter
 - iii. An applicant or abutter may submit a written request for a hearing with the Department within seven (7) business days of notification for the purpose of reviewing plan and design considerations and suggested modifications
 - d. Permit Approval
 - i. Any modifications of plans after permit is issued shall require written notification to the Department and shall require re-approval;
 - ii. All permits issued by the Department shall be nontransferable
 - 1. Any sale or transfer of property shall require written notification from the permit holder to the health department immediately
 - 2. A new permit application must be submitted to the Department by any new owner seeking to keep hens on said property
2. Permit application and renewal fees (TBD)
3. Permit Renewal schedule
- a. All permits shall be renewed annually and shall expire on December 31 (TBD) of each calendar year
 - b. Permit renewal applications must be submitted to the Department at least 3 weeks before expiration date



CAMBRIDGE PUBLIC HEALTH DEPARTMENT REGULATION FOR THE KEEPING OF HENS

Section 5. Operations & Practice

1. No roosters shall be kept in Cambridge at any time
2. All applicable Cambridge Zoning Ordinance requirements shall be in compliance
3. The location of the coop and pen shall be subject to the following requirements
 - a. No less than 100 feet from a Wetland as defined by M.G.L. c.131 §40
 - b. No less than 100 feet from any public drinking water supply
 - c. Placement and features shall be designed to prevent runoff beyond the property line
4. All applicable requirements of 330 CMR 5.00 (MA Poultry regulation) shall be in compliance.
5. Owners shall follow MDAR best management practices and recommended biosecurity measures for backyard poultry keepers.
 - a. Measures may include but are not limited to the following: adequate coop ventilation; protection from the elements, drafts, and moisture; appropriate litter/coop floor substrate; adequate nutrition, food supply, and access to potable water; appropriate manure management and predator/pest control; adherence to requirements for buying, transporting, exhibiting and selling hens; *Salmonella pullorum* testing and *Mycoplasma* screening; obtaining birds from a reputable source; appropriate vaccination against infectious diseases; and quarantine requirements for introduction of new birds to an established flock.
6. The following conditions shall apply to waste and manure management:
 - a. Waste may be composted with carbonaceous/organic material such as hay, bedding, or leaves
 - b. Should the weather be too cold, or composting is not otherwise possible, waste must be stored in a sealed container until proper disposal
 - c. Bi-weekly cleaning of henhouses is required; more frequent cleanings may be required as needed to prevent odor or nuisance conditions
7. All coops shall be elevated above ground level and employ gap-free construction using the proper gauge wire ($\leq 1/2$ " hardware cloth) to prevent access to rodents and other vermin
8. All coops shall be marked with owner's name and contact information
9. All hens shall have access to fresh potable water daily; stagnant water is not permitted
10. Hens shall be kept in enclosed coops and pens at all times unless actively supervised
 - a. Hens shall be kept segregated from interaction with migratory waterfowl
 - b. All hens must be confined to the permit holder's property at all times to prevent wandering and straying onto other properties
11. Unsanitary conditions and/or public health nuisance conditions shall not be permitted, including, but not limited to perceptible odor or noise at the property boundary



CAMBRIDGE PUBLIC HEALTH DEPARTMENT REGULATION FOR THE KEEPING OF HENS

- a. Investigation of noise complaints is subject to the jurisdiction of the Cambridge License Committee
12. All owners shall be required to notify the Department of any changes to the plan submitted in the original permit application, in accordance with Section 4 of this regulation

Section 6. Predator & Pest Control

1. All chicken feed shall be stored securely in a moisture-proof container inaccessible to rodents, pests, and predators, inside the primary structure
2. All feed leftover from feeding shall not remain in an area accessible to rodents, pests, and predators after dusk
3. All regulations and best practices shall be followed in compliance with section 5.00 of this regulation

Section 7. Health & Disease Concerns

1. In compliance with section 5.10a of the regulation, interaction of hens with wild waterfowl (e.g., ducks, geese) shall be avoided, to the extent feasible, to prevent HPAI transmission
2. In the unlikely event of a confirmed positive case of HPAI in a domestic flock, response actions shall proceed as directed by state officials under the Commonwealth of Massachusetts HPAI Multi-Agency Coordination and Operations Plan, including applicable quarantine, control zone restrictions, depopulation, decontamination, disposal and/or clearance requirements
3. Young children (<5 years) and people with compromised immune systems are at highest risk of salmonella infection and should not be involved in the care and maintenance of hens

Section 8.00 Humane Treatment

1. All practices shall comply with state requirements per M.G.L c.272 §77 for the humane treatment of animals
 - a. Reports of cruelty to animals are subject to investigation by MSPCA Law Enforcement
2. The coop and pen shall be kept sanitary, free from decaying or rotting food, filth, vermin infestation, and stagnant water
3. All best practices as enumerated in section 5.00 of the regulation shall be in compliance



CAMBRIDGE PUBLIC HEALTH DEPARTMENT REGULATION FOR THE KEEPING OF HENS

Section 9.00 Sale of Eggs

1. Farm fresh eggs offered for sale must be stored and maintained at 45°F or less in accordance with MDPH and MDAR requirements
2. Sale of any cooked or processed eggs, egg products, or any other type of food products requires a retail food permit with the City of Cambridge Inspectional Services Department (ISD) in compliance with the MA Food Code 105 CMR 590.

Section 10.00 Inspections

1. The Department or designated agent(s) for the Department shall be the chief enforcement officer of this regulation and shall have the authority to issue violations, enforcement orders, and penalties.
2. There shall be one or more initial inspections during the permit application and review phase to determine permit approval
3. There shall be at least one annual routine inspection
4. Inspections by the chief enforcement officer shall also take place upon the following:
 - a. Written or telephonic complaint
 - b. Any changes or modifications to plan or ownership as outlined in Section 4 of this regulation
 - c. Re-inspections upon violations
 - d. As needed to ensure to assure safe and sanitary operations

Section 11.00 Violations, Enforcement Orders & Penalties

1. Written notice of any violation of this Regulation shall be given to the owner of the hens and property owner by the chief enforcement officer, and shall:
 - a. Specify the nature of the violation and the schedule for compliance
 - b. Order any corrective actions that must be undertaken to bring to compliance, and
 - c. Order any preventative measure required to avoid future violations.
2. Any permit holder or licensee may request a hearing by written request to the Department within 10 days of receipt of written notice of violations.
3. If the Department, or its agent, determines that the hens cause disturbances on, or damage to neighboring property or public areas, the Department or its agent may require that the hens be relocated, at the owner's expense, immediately



CAMBRIDGE PUBLIC HEALTH DEPARTMENT REGULATION FOR THE KEEPING OF HENS

4. If, under the judgment of the Department, a condition of imminent public health hazard exists the Department shall issue an immediate cease and desist order; other actions may include, but are not limited to suspension or revocation of permit
5. Whoever violates any provision of this regulation may be penalized by a non-criminal disposition process as provided by M.G.L c.40 §21D. If non-criminal disposition is elected, then any person who violates any provision of this regulation shall be subject to a penalty as follows:
 - a. First Offense - \$25.00
 - b. Second Offense - \$50.00
 - c. Third Offense - \$100.00
 - d. Fourth and Further Offenses - \$300.00
 - e. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
6. Whoever violates any provision of this regulation may be penalized by indictment or on complaint brought in a court of competent jurisdiction as provided by M.G.L. c.218 §26. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
7. The Department may suspend, revoke, or decline to renew a permit for cause after reasonable notice to the licensee of the grounds for the proposed action.

Section 12.00 Variances

1. The Department may vary the application of any provision of this regulation with respect to any particular case, when, in the Department's opinion, the enforcement thereof would do manifest injustice; provided that the decision does not jeopardize public health or the environment and shall not conflict with the intent and spirit of this regulation.
2. A request for a variance shall be submitted in writing. The Department may ask for supporting evidence in order to consider the variance request. The request shall not be deemed complete until all such requested evidence has been received by the Department.
3. Any variance granted under this section may be subject to qualification, revocation, suspension, or expiration. A variance granted may be revoked, modified, or suspended in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard in accordance with this regulation.
4. Any variance granted by the Department shall be in writing. A copy of any such variance, while it is in effect, shall be available to the public at all reasonable hours at the Department. A copy of the variance shall also be on file with the permit holder.



Cambridge
Public Health
Department

CAMBRIDGE PUBLIC HEALTH DEPARTMENT REGULATION FOR THE KEEPING OF HENS

Section 13.00 Severability

If any provision, clause, section, sentence, or paragraph of the above regulation shall be held to be invalid, such invalidity shall not affect the remaining provisions of the regulation. The valid part of any provision, clause, section, sentence, or paragraph shall be given independence from the invalid provisions, and to this end the regulations are hereby declared to be severable.

DRAFT