

AGENDA
September 25, 2024

REGULAR MEETING
PLAN/ZONING BOARD OF APPEALS

Prospect Heights City Hall
8 North Elmhurst Road – 7 p.m.

I. Call to Order & Roll Call

II. Pledge of Allegiance

III. Approval of Minutes

1. July 24, 2024 Regular Meeting

IV. Old Business

Review of rules for public hearings

1. PZBA - Case No. ZBA 24-01 PUD - Public Hearing Amendments and Variations

Applicant: City of Prospect Heights, Daniel A. Peterson, Director Building & Development
Address: 8 N. Elmhurst Rd., Prospect Heights, IL 60070

Description of Request:

- A. The petitioner is seeking to amend Title 5 Chapter 2 Definitions and Title 5 Chapter General Provisions of Zoning Code to add definitions and regulations for allowing chickens as an accessory use in the R-1 Single Family Residential District per Section 5-6-1 of the City of Prospect Heights Zoning Code.

V. New Business

1. PZBA – Case #24-12 V – Public Hearing Corner Side Yard Variation

Applicant: Teodora Varcheva
Address: 2 E. Hawthorne Place, Prospect Heights, IL 60070

Description of Request. Applicant is seeking a variation to Section 5-3-4 H1f(2) of the City of Prospect Heights Zoning Code to allow the reduction of the required corner yard setback from 20' to 0' for the construction of a 4' decorative metal fence.

VI. Public Comment – Non-Agenda Items

VII. Previous Application Updates

VIII. Communications

IX. Adjournment



City of Prospect Heights

Department of Building & Zoning
8 North Elmhurst Road, Prospect Heights Illinois, 60070-6070
Office: 847/398-6070 x 211-FAX: 847/590-1854
www.prospect-heights.il.us

MEMORANDUM

Date: September 18, 2024

To: Maciej Kempa, Chairman and PZBA Member

Cc: Joe Wade, City Administrator
John O'Driscoll, City Attorney

From: Daniel A. Peterson, Director of Building & Development

Subject: PZBA Case #24-01 TA Text Amendments to: Title 5 Section 2: Definitions and
Title 5 Section 3: General Provisions

Please be advised that the public hearing will reconvene for PZBA Case #24-01 TA at the next regular meeting of the PZBA Wednesday September 25, 2024 at 7:00 pm to consider text amendments to Title 5 Chapter 2: Definitions and Title 5 Chapter 3 General Provisions of the City of Prospect Heights Zoning code regarding the keeping of chickens in the R-1 Single Family Residential District.

BACKGROUND:

During the city council meeting on October In 2022, residents spoke during public comment regarding the problems they were having with nuisance problem with a neighbor regarding chickens and want a ban on chickens being kept in the R-1 District. The City Council directed the matter to the Planning Zoning Board of Appeals (PZBA) to research the matter. The PZBA held two public informational meetings on January 24, 2024 and March 20, 2024. At the conclusion of the two meetings the PZBA directed staff to prepare an application for text amendments to the City Zoning code for a public hearing. Staff requested a continuance of the public hearing to address concerns and questions raised by the PZBA during the hearing. A continuance was granted to September 25, 2024.

Director Peterson reached out to members of the public that provided testimony at the public hearings both in support of minimal changes and those that want reasonable restriction in the ordinances. Due to summer schedules and to accommodate schedules, two meetings were held to go over the draft ordinance. The first meeting was held on July 19, 2024, and included a committee of Tiffany Hinton, Genevieve Charet, Nikki Moylan and Beky Fuscone, Randall Brace could not make the meeting. The second meeting was held on August 22, 2024, with Jim and Linda Kleinschmidt, Lynn Schumacher and Rebecca Bossley. I want to thank all participants for their insight, openness and contributions in the process.

SUMMARY OF MEETING DISCUSSION:

The result of both meetings and review of comments supports keeping chickens within the city is an appropriate use within the R-1 Single Family Residential zoning district. The following is an outline of the discussion items and comments.

- Definition of Coops:
 - Permanent Coops, 200 square feet max, for structure, coop and open area fully contain with or without a roof.
 - Mobile Coop: Constructed on a trailer and movable. Maximum size 200 sq. ft. will be allowed portable fencing for run or permanent fencing. Will not count for lot coverage calculations.
 - Fencing: Approved fencing will be determined at time of application for Chicken Keeping Permit. Eliminates the need for the 6' privacy fence. Will require a separate building permit.

Action: Staff has incorporated changes to the draft ordinance.

- Setback for placement of coops and runs
 - Comments were made to increase the distance to 15' which is the setback requirement for a primary structure (house). Reduce noise and odor impacts to adjoining properties.
 - Mobile Coop and portable runs must maintain the required setbacks.

Action: No changes to the current zoning code setback requirements for accessory structures.

- Consideration of other fowl
 - Expanding the allowed fowl to include ducks, geese, quail and turkeys
 - Geese and turkeys produce loud noise and would not be recommended by staff
 - Federally regulated waterfowl and game birds would be prohibited.

Action: Staff recommends consideration of other fowl. Except geese and turkeys due to potential noise issues.

- The Prohibition of Roosters
 - The groups were split: Equally between keep roosters and prohibit roosters
 - "Three Strike" for violations discussed.
 - Enforcement of the noise ordinance problematic. Would place burden on neighbors to report violations.

Action: Staff is not recommending a change in the draft ordinance.

- Number Limit of 20 total hens
 - The limit of 20 would remain the limit
 - If there is an addition of other fowl added, the total number of fowl would still be 20 as an aggregate total. Ex: 15 hens and 5 ducks.
 - Agreement on number from all participants.

Action: No change to the draft ordinance.

- Sale of Eggs
 - State of Illinois permits the sale of eggs from own flock to household users.
 - City Sign Code does not permit advertising of items for sale in residential districts and would not be permitted for the sale of eggs.

Action: As a non-home rule municipality, the city cannot restrict sale of eggs. However, the City can enforce the current restrictions on signs. The sale of eggs or meat cannot be a home occupation.

- Annual fee and inspection requirement
 - Annual registration to maintain the Accessory Use approval
 - Will establish inspection protocols

- Half the group thought this was unnecessary
- Half thought annuals fees and inspections are necessary and like dog and cat registrations

Action: No change to the proposed ordinance.

- Chicken Community Board
 - Proposed by group of resident chicken owners to provide guidance and assistance to the community
 - Would not be a formal committee or board of the City
 - Staff would recommend their resources for training, inspection and support for new chicken owners
 - Contact information would be included with permit application packets

Action: None. This would be a voluntary organization. Staff will utilize the board as a resource as to enhance the chicken keeping experience for our residents. Great resource for education and communication

The participants were in general agreement with items discussed and direction of the draft ordinance. Having better definitions written will help with resident understanding or the requirements for keeping chickens, as well as, providing the tools for consistent application and enforcement of the ordinance. However, there was disagreement regarding prohibiting roosters and the annual renewal fee and inspection.

A redline version of the draft ordinance is contained in your packet for review.

CONCLUSION

This has been a very public and inclusive process to hear perspectives from residents of the community. The result is a proposed ordinance which preserves the keeping of chickens as a permitted accessory use in the R-1 District. The ordinance establishes the rules for current and future chicken owners to be compliant chicken keepers. Finally, the ordinance will provide consistency, predictability and enforceability that is necessary to protect all residents within the City of Prospect Heights.

Thanks again to community for their participation in the ordinance development process.

RECOMMENDATION: Staff is seeking a positive recommendation of the proposed ordinance and referral to the City Council.

Att: Draft Ordinance – Redline dated 09/18/2024
Suggested ordinance language provided by Tiffany Hinton and the Chicken Community Board Committee
State of Illinois Egg and Egg Products Act 410/ILCS/615 Summary and Full Text

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Proposed Keeping Chickens Zoning Amendments

EXHIBIT

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Title 9 – Police Regulations. Amendments do not require a public hearing or text amendment.

Title 5 – Zoning. Require public hearings for text amendments.

Title 9 Chapter 1: Animal Control

9-1-15: PROHIBITED ANIMALS: (REVISE TO READ)

It shall be unlawful to house, keep, or maintain livestock or exotic animals, within the City, except in zoological parks, performing animal exhibitions, educational institutions, veterinary hospitals, animal shelters, or as otherwise provided in this chapter or within the City's Zoning Code. Livestock and exotic animals shall be defined as follows:

EXOTIC:	Meaning any animal that is not normally domesticated in the United States or is wild by nature, whether bred in the wild or captivity and also their hybrids with domestic species.
LIVESTOCK:	Meaning breeds of animals primarily raised for commercial purposes on agricultural property, in out-buildings or open spaces separate from residences. Typical animals include, but are not limited to fowl, poultry, bison, cattle, pigs, swine, sheep, goats, horses, donkeys, equidae, camelids, and ratites.
FOWL:	Refers to any larger domestic bird generally used for food, including but not limited to chickens, ducks , geese, <u>quail</u> and turkeys, except for chicken hens (<i>Gallus gallus domesticus</i>) <u>and domestic ducks (not federally regulated waterfowl)</u> as provided for herein,

9-1-16: LIMITATION ON NUMBER OF ANIMALS: (AMEND TO ADD PARAGRAPH E)

- E. No person shall keep more than twenty (20) hens fowl in aggregate on any premise in the in the R-1 Residential District.
1. Roosters are prohibited.
 2. Fowl, except chicken hens, ducks and quail, are prohibited.

PROPOSED TEXT AMENDMENTS TO TITLE 5 ZONING CODE

5-2-3: DEFINITIONS

(A) Definitions: ADD THE FOLLOWING DEFINITIONS

CHICKEN(S):	The common domestic fowl. (<i>Gallus gallus domesticus</i>)
COOP:	A coop, building, pen or other enclosure, with or without an enclosed pen or hen yard, that is designed, constructed and maintained to confine fowl within the coop and to prevent access by predators and trespassers. Shall meet requirements of Accessory Structures. (Sec. 5-3-4 Lot Coverage)
<u>Ducks</u>	<u>Domestic ducks raised for egg production and meat. (Not Federally regulated waterfowl.)</u>

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Proposed Keeping Chickens Zoning Amendments

FOWL:	Refers to any larger domestic bird generally used for food, including but not limited to chickens, ducks , geese, <u>quail</u> and turkeys, except for chicken hens (<i>Gallus gallus domesticus</i>) <u>domestic ducks and quail</u> as provided for herein,
HEN:	A female chicken.
POULTRY:	Domestic fowl, such as, but not limited to chickens, turkeys, ducks, and geese which is raised for meat, eggs or feathers.
ROOSTER:	A male chicken.

Amend Title 5 Chapter 3 Section 4: Lot Coverage to read.

The following examples of structures and/or uses are not defined as accessory buildings and shall not be included in the square foot calculations: decks, patios, outdoor fireplaces, child's tree house, sundial, dog run, lawn furniture, light standards, screening fence for RV/boat, arbors, trellises, fence, swimming pool, flagpole, statues, sidewalk, stepping stones, tennis/badminton/volleyball court."

Amend Title 5 Chapter 3 by adding the following as a new section.

5-3-21: KEEPING CHICKENS FOWL **(KEEPING FOWL)**

(A) REQUIREMENTS and PERMITS:

1. Raising/keeping of hens shall be permitted on all single-family detached residential zoning lots (5-6-1 A) as an accessory use. Property shall comply with the requirements of Title 5 of the City of Prospect Heights Zoning Code and Municipal Codes & Ordinances and state and federal law.
2. No person shall house, keep, or maintain ~~chickens-permitted fowl~~ on any property within the City, without first obtaining a permit from the City.
 - a. Property shall be register with the Illinois Department of Agriculture as a Livestock Premise
 - b. Requires initial Building/Zoning Inspection
 - c. Annual Zoning inspection
 - d. Permit is required prior to buying ~~chickensfowl~~. (Applies to new Keeping Fowl property applicants)
3. As a condition of the permit, the homeowner wishing to maintain a hen coop agrees to allow access to the property to the city for routine inspection purposes.
4. Maximum number of twenty (20) ~~hens-fowl in aggregate~~, shall be permitted regardless of lot size. (Sec. 9-1-16)
5. All ~~permitted fowl hens~~ shall be kept within a coop ~~consisting~~consisting of or a covered enclosure/structure with an attached covered/~~enclosed or open~~ outdoor area. ~~to prevent the hens from encroaching onto neighboring properties.~~
6. ~~An outdoor area a minimum of ten (10) square feet per hen will be required and a maximum of two hundred (200) square total square feet will be permitted for both the covered enclosure/structure and outdoor area, unless rear yard is enclosed with a solid six foot (6') high privacy fence.~~

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Proposed Keeping Chickens Zoning Amendments

7-6. All enclosures/structure and mobile coops shall comply with the requirements section 5-3-4 Lot Coverage Accessory Structure.

- a. Located in rear yard
- b. Maximum size is two hundred (200) square feet.
- c. Minimum of ~~One~~ hundred twenty (120) feet from front lot line
- d. Minimum of five foot (5 ') setback from interior side lot line and ten foot (10') setback from rear lot line. No coops shall be placed in an easement.
- e. Maximum Height of the coop shall be ten feet (10).
- f. Hens-Fowl are allowed to roam out of a coop in the rear yard with an approved fence. Fence permits are separate from a hen coop/ accessory structure permit.

8-7. Roosters are prohibited. (Sec. 9-1-16)

9-8. No other fowl/poultry, including but not limited to geese, ~~ducks~~, and turkeys shall be kept on the property.

10-9. A building permit for a ~~chicken~~ coop enclosure/structure is required prior to construction of the coop. Shall comply with requirements of the City Building Code and Accessory Structures Sec. 5-3-4.

11-10. All areas where ~~hens-fowl~~ are kept shall be clean and well maintained on a daily basis, with little to no accumulation of waste. In addition, all areas where ~~hens-fowl~~ are kept shall not produce or cause odors that are detectable to adjacent properties. All feed shall be kept in sealed metal containers.

12-11. ~~Sale of egg(s) or hen(s) or anything related to chicken-keeping is not allowed. Sec. 5-3-4 Home Occupation shall comply with the Illinois Egg and Egg Products Act 410/ILCS/615. Advertising sale of eggs as a home occupation is prohibited.~~

13-12. Slaughtering of ~~hens-fowl~~ on the property is prohibited.

14-13. All non-conforming properties must be brought into conformance with the keeping of ~~chickens~~ (~~hens~~)~~approved fowl~~ regulations of this article within 12 months from the date of adoption of this ordinance.

B. FEES*:

1. An initial ~~hen-Keeping Fowl~~ permit shall be required for approval of quantity of ~~hensfowl~~, coops, and required fencing. Permit application shall be authorized by owner of property. Permit authorizes City staff to inspect property for compliance when deemed necessary. Permit approval is required prior to obtaining ~~hens fowl~~.
2. A ~~hen-fowl~~ permit issued by the City with an initial permit fee of ninety dollars (\$90) shall be required. A renewal permit/registration shall be required each year thereafter, with a renewal fee of forty dollars (\$40).*

C. REVOCATION:

1. A hen permit issued under this article shall be revoked upon the commission of three (3) violations within a period of twelve (12) months. If the permit is revoked, the property shall not be eligible for a

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Proposed Keeping Chickens Zoning Amendments

permit for one year after revocation. Any enclosure/structure shall be required to be removed within fifteen (15) days of revocation.

D. PENALTIES:

See Section 5-12-1 Fine:

5-12-1: FINE: Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this title shall be fined not less than twenty five dollars (\$25.00), nor more than seven hundred fifty dollars (\$750.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. (Ord. O-77-27, 7-18-1977; amd. Ord. O-18-05, 3-12-2018; Ord. O-18-21, 6-11-2018)

+ Initial Permit Fee = \$90.00 (Bldg. Fee: \$50 sect. 4-5-3 + Zoning Fee: \$40 sec. 5-10-14)

Renewal Fee = \$40.00 (Zoning Inspection 5-10-14)

Dan Peterson

EXHIBIT

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From: Tiffany Hinton
Sent: Wednesday, August 28, 2024 7:11 AM
To: Dan Peterson
Subject: Re: Chicken Ordinance follow up
Attachments: Court decisions on lawful recording.pdf; DRAFT- PH Chicken Ordinances.pdf; eggrulesregulations.pdf

***** THIS IS AN EXTERNAL EMAIL, PLEASE EXERCISE CAUTION WITH LINKS *****

Good morning Dan,

Attached are our draft updates for the proposed ordinance changes and additions. I also attached 2 documents as supporting documents.

We are ok to compromise with the 20 chicken limit, lot and zoning restrictions along with FEMA code. Other items we updated are in the draft. We want to ensure we are not causing undue economic burden to other residents.

Please reach out to myself or Niki with any questions.

Thank you
Tiffany Hinton

On Tue, Aug 27, 2024 at 3:36 PM Dan Peterson <dpeterson@prospect-heights.org> wrote:

Tiffany,

Thank you for reaching out regarding additional revisions or comments. My schedule has been overloaded recently staffing items and our busy construction season. Due to timing and being able to get the draft prepared, It would be best if you would send your suggested revisions to me as soon as possible. Then I can review and ask questions if needed. The I can prepare my summary and revisions in preparation for the meeting on September 25th. Any changes to the draft ordinance will be provide in advance of the PZBA meeting.

I look forward to reading your proposed revisions.

Give me a call should you have any questions.

Have a good day.

Dan Peterson

Dan Peterson
Building & Development Director
City of Prospect Heights, Illinois
(847) 398-6070 x208 || (847) 392-4244 Fax
dpeterson@prospect-heights.org



From: Tiffany Hinton <t.hinton@email.com>
Sent: Friday, August 23, 2024 7:52 AM
To: Dan Peterson <dpeterson@prospect-heights.org>
Subject: Chicken Ordinance follow up

***** THIS IS AN EXTERNAL EMAIL, PLEASE EXERCISE CAUTION WITH LINKS *****

Dan,

Good morning. We are working on getting you a revised draft with the items we discussed and you requested when we met in July. When are we able to meet again? I know we mentioned possibly the 2nd or 3rd week of August. We would like to meet again so there is plenty of time for review and discussion with you. Please let us know when you are available next week?

Also, Do you have any further updates you can share with us?

Thank you

Tiffany Hinton

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Presented by
Tiffany Hinton

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9-1-15: PROHIBITED ANIMALS: (REVISE TO READ)

It shall be unlawful to keep any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena or coyote, or any poisonous reptile in any place other than a properly maintained zoological park, circus, scientific or educational institution, research laboratory, veterinary hospital or animal shelter. (Ord. 0-77-26, 10-17-1977)

Additionally, it shall be unlawful, with the exception of fowl, to house, keep, or maintain any livestock within the city, except in zoological parks, performing animal exhibitions, educational institutions, veterinary hospitals, animal shelters, or as otherwise provided in this chapter or within the city's zoning code. Livestock and fowl shall be defined as follows:

LIVESTOCK	Meaning species of animals primarily raised for commercial purposes on agricultural property, in out-buildings or open spaces separate from residences. Typical animals include but are not limited to fowl, poultry, bison, cattle, pigs, swine, sheep, goats, horses, donkeys, equidae, camelids, and ratites.
FOWL	Refers to any domestic bird generally used for food or egg production, including but not limited to chickens, ducks, geese, quails, and turkeys. It shall be prohibited to keep peafowls and guineafowls.

9-1-16: LIMITATION ON NUMBER OF ANIMALS: (AMEND TO ADD PARAGRAPH E)

E. Raising/keeping of fowl shall be permitted on all single-family detached residential zoning lots (5-6-1A) as an accessory use. Property shall comply with the requirements of Title 5 of the City of Prospect Heights Zoning Code and Municipal Codes & Ordinances and state and federal law.

1. Fowl shall be limited in number by the space of their lawful coop. Fowl shall be kept in no greater number than can be reasonably, humanely, and cleanly cared for in the space of the coop. This number may vary depending on the species, breed, size, and space requirements of the fowl being housed.
2. Residents may responsibly keep roosters and must take all reasonable measures to ensure that they do not create a noise disturbance.

- a. The city will issue a violation letter allowing 30 days for remediation of noise once a complaint is received via phone or email, if noise issue is not resolved in 60 days offending rooster will need to be rehomed or culled. At 120 days the property owner forfeits the rooster and is fined.
- b. Property owner can use methods such as but not limited to blackout curtains, placing rooster indoors during evening, night and early morning hours, crow collars to help limit obnoxious noise and prevent noise complaints.

PROPOSED TEXT AMENDMENTS TO TITLE 5 ZONING CODE

5-2-3: DEFINITIONS

(A) Definitions: ADD THE FOLLOWING DEFINITIONS

CHICKEN(S):	The common domestic fowl. (<i>Gallus gallus domesticus</i>)
COOP:	A building, pen or other enclosure that is designed, constructed, and maintained to house fowl and to prevent access by predators and trespassers. Shall meet requirements of Accessory Structures. (Sec. 5-3-4 Lot Coverage)
FOWL:	Refers to any larger domestic bird generally used for food, including but not limited to chickens, ducks, geese, quails, and turkeys.
FOWL RUN:	An enclosed outdoor space with or without a covering for fowl to roam and exercise safely.

5-3-4: LOT COVERAGE (AMEND SECTION OF CHART AFTER PARAGRAPH G)

"The following examples of structures and/or uses are not defined as accessory buildings and shall not be included in the square foot calculations: decks, patios, outdoor fireplaces, child's tree house, sundial, dog run, fowl run, non-permanent or mobile fowl coops, lawn furniture, light standards, screening fence for RV/boat, arbors, trellises, fence, swimming pool, flagpole, statues, sidewalk, stepping stones, tennis/badminton/volleyball court."

Amend Title 5 Chapter 3 by adding the following as a new section.

5-3-21: KEEPING FOWL

(A) REQUIREMENTS and PERMITS:

1. Raising/keeping of fowl shall be permitted on all single-family detached residential zoning lots (5-6-1A) as an accessory use. Property shall comply with the requirements of Title 5 of the City of Prospect Heights Zoning Code and Municipal Codes & Ordinances and state and federal law.
2. No person shall house, keep, or maintain fowl on any property within the City, without first obtaining a permit from the City.
 - a. Requires initial Building/Zoning inspection of coop (accessory structure).
 - b. All fowl must be provided shelter.
3. All coops qualifying as permanent structures shall comply with the requirements section 5-3-4: Lot Coverage and section 5-3-9: Accessory Buildings and Structures.
 - a. Located in rear yard
 - b. Maximum size is two hundred (200) square feet.
 - c. One hundred twenty (120) feet from front lot line.
 - d. Minimum of five foot (5') setback from interior side lot line, ten foot (10') setback from rear lot line and fifteen feet (15') setback from rear lot line on reverse corner lots. No coops shall be placed in an easement. (Is this standard or are these numbers specific to coops only?)
 - e. Maximum height of the coop shall be ten (10) feet.
 - f. Containment: All fowl must be contained by reasonable means to the rear yard of the owner's property. Reasonable means include but are not limited to 1) temporary barriers or fencing 2) a permanent fence, in which case the fence must be an approved structure that complies with the city's fence code, 3) providing a fowl run, 4) properly clipping the flight feathers
4. A building permit for a fowl coop is required prior to construction of the coop. Shall comply with requirements of the city's Building and Property Maintenance Codes.
5. Areas where fowl are kept shall be clean and well maintained, such that they do not produce or cause odors that are detectable to adjacent properties. Feed shall be kept in sealed/pest-proof containers.
6. Sale of eggs shall be permitted only in accordance with Illinois Egg and Egg Products Act Rules and Regulations, which can be found on the Illinois Department of Agriculture website.

Summary:

<https://agr.illinois.gov/consumers/egginspection/selling-eggs.html>

Full Text:

<https://agr.illinois.gov/content/dam/soi/en/web/agr/consumers/egginspection/documents/eggrulesregulations.pdf>

7. Slaughtering fowl for commercial purposes is prohibited.
8. All non-conforming properties must be brought into conformance with the keeping of fowl regulations of this article no later than 12 months following initial inspection upon adoption of this ordinance without creating undue economic burden.

(B) FEES*

An initial flock permit costing ninety dollars (\$90) issued by the city shall be required to keep fowl, with an annual renewal required each year they shall be kept. Permit application shall be authorized by owner of property.

(C) REVOCATION:

1. A fowl permit issued under this article shall be revoked upon the commission of three (3) violations within a period of twelve (12) months. If the permit is revoked, the property shall not be eligible for a permit for one year after revocation. Any fowl coop/structure shall be required to be removed within fifteen (15) days of revocation.

(D) PENALTIES:

See Section 5-12-1 Fine:

5-12-1: FINE: Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this title shall be fined not less than twenty five dollars (\$25.00), nor more than seven hundred fifty dollars (\$750.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. (Ord. 0-77-27, 7-18-1977; amd. Ord. O-18-05, 3-12-2018; Ord. O-18-21, 6-11-2018)

- + Initial Permit Fee = \$90.00 (Bldg. Fee: \$50 sec. 4-5-3 + Zoning Fee: \$40 sec. 5-10-14)
Renewal Fee = \$40.00 (Zoning Inspection 5-10-14)

State of Illinois



Department of Agriculture



Illinois Egg and Egg Products Act Rules and Regulations

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Object of the Illinois Egg Law

This law has been developed and improved for the benefit of producers, grading stations, distributors, retailers, and consumers alike. Requirements include candling for quality, grading for size, and honesty in labeling. With these basics, both the retailer and consumer may specify and be assured of getting the kinds of eggs that meet their needs.

Points to Remember

- | | |
|---------|--|
| First | The Federal standards and grades for shell eggs are official for eggs offered for sale in Illinois. |
| Second | All eggs received by retailers must be prepackaged in new consumer containers. |
| Third | Cartons must show grade and size of eggs plus identifiable origin, and pack date. |
| Fourth | Eggs offered for sale as “fresh eggs”, or by any other words of similar meaning must meet the minimum requirements of Grade A. |
| Fifth | All eggs bearing a designated grade or size must be held at a temperature not to exceed 45 degrees Fahrenheit and kept from freezing, until they reach the consumer. |
| Sixth | Because eggs are a perishable item of food and the preservation of quality a sensitive issue, certain sanitation requirements have been included, governing cases, packing material, premises, facilities, vehicles, display cases, etc. |
| Seventh | The Illinois Department of Agriculture has been charged with the responsibility for enforcing this law. Representatives of the Department will endeavor to advise and cooperate with all interested parties to achieve the greatest possible benefits. |
| Eighth | This law does not apply to those nest run eggs sold by a producer when eggs are produced by his own flock, except where he elects to subject himself to the law’s provisions by engaging in selling eggs for public consumption. |

Illinois Egg and Egg Products Act

410/ILCS/615

615/1. Short Title

Sec. 1. This Act may be cited as the Illinois Egg and Egg Products Act.
(Source: P.A. 86 1475.)

615/2. Legislative Policy

Sec. 2. It is hereby declared to be the policy of the General Assembly to provide for the inspection of eggs and egg products, place restrictions upon the disposition of certain qualities of eggs, and provide uniformity of standards for eggs, and otherwise regulate the processing, handling, labeling, and distribution of eggs and egg products as hereinafter prescribed to prevent the movement or sale for human food of eggs and egg products which are adulterated or misbranded or otherwise in violation of this Act, and to cooperate with the Federal Government, the several states, and other people to effectively carry out the mandate of this Act.
(Source: P.A. 79 678.)

615/3. Definitions

Sec. 3. Definitions. For the purpose of this Act, unless the context otherwise requires, the terms specified in Sections 3.1 through 3.36 have the meanings assigned to them in those Sections.
(Source: P.A. 79 678.)

615/3.1. Adulterated

Sec. 3.1. "Adulterated" means any egg or egg product under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance that may render it injurious to health; but in case the substance is not an added substance, the article shall not be considered adulterated under this clause if the quantity of the substance in or on the article does not ordinarily render it injurious to health.

(b) If it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) that may, in the judgment of the Director, make the article unfit for human food.

(c) If it is, in whole or in part, a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe within the meaning of Section 408 of the Federal Food, Drug and Cosmetic Act.

(d) If it bears or contains any food additive that is unsafe within the meaning of Section 409 of the Federal Food, Drug and Cosmetic Act.

(e) If it bears or contains any color additive that is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act. However, an article that is not otherwise deemed adulterated under subparagraph (c), (d), or (e) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on the article, is prohibited by regulations of the Director in official plants.

(f) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food.

(g) If it has been prepared, packaged, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(h) If it is an egg that has been subjected to incubation or the product of any egg that has been subjected to incubation.

(i) If its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(j) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under Section 409 of the Federal Food, Drug and Cosmetic Act.

(k) If any valuable constituent has been, in whole or in part, omitted or abstracted from the egg or egg product; or if any substance has been substituted, wholly or in part for the egg or egg product; or if damage or inferiority has been concealed in any manner; or if any substance has been added to the egg or egg product or mixed or packed with the egg or egg product so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(l) If the egg is processed in a manner that does not allow the examination of the content of the individual egg and allows the egg content to commingle with the egg shell or shell membrane during processing.

(Source: P.A. 89 154, eff. 7 19 95.)

615/3.2. Broker

Sec. 3.2. “Broker” means any person who arranges the transfer or ownership of eggs or egg products from one person to another and who may or may not take possession of such eggs or egg products in the process.

(Source: P.A. 79 678.)

615/3.3. Candling

Sec. 3.3. “Candling” means the careful examination, in an adequately dark room or place, of the whole egg by means of a strong light, the

apparatus and method employed to be such as shall be approved by the said Department.

(Source: P.A. 79 678.)

615/3.4. Check

Sec. 3.4. "Check" means an egg that has a broken shell or crack in the shell but has its membranes intact and contents not leaking.

(Source: P.A. 79 678.)

615/3.5. Clean and sound shell egg

Sec. 3.5. "Clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(Source: P.A. 79 678.)

615/3.6. Consumer

Sec. 3.6. "Consumer" means any person who acquires eggs for consumption by members of his own household, nonpaying guests and employees, and not for resale.

(Source: P.A. 79 678.)

615/3.7. Consumer size container

Sec. 3.7. "Consumer size container" means any case, carton, sleeve, or other container approved by the Department which is used to market eggs to consumers.

(Source: P.A. 79 678.)

615/3.8. Department

Sec. 3.8. "Department" means the Department of Agriculture of the State of Illinois.

(Source: P.A. 79 678.)

615/3.9. Director

Sec. 3.9. "Director" means the Director of the Department of Agriculture of the State of Illinois.

(Source: P.A. 79 678.)

615/3.10. Dirty egg

Sec. 3.10. "Dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material, or prominent stains on the shell surface, or moderate stains covering more than 1/4 of the shell surface.

(Source: P.A. 79 678.)

615/3.11. Distributor

Sec. 3.11. “Distributor” means any person who sells eggs to retailers or institutional consumers and shall include any person distributing eggs to his or to its own retail outlets or stores, but not including any person only engaged in the hauling or transporting of eggs.

(Source: P.A. 79 678.)

615/3.12. Egg products

Sec. 3.12. “Egg products” means any liquid, frozen, or dried eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Director, considered by consumers as products of the egg industry, and which may be exempted by the Director under conditions he may prescribe to assure that the egg ingredients are not adulterated and the products are not adulterated and the products are not represented as egg products.

(Source: P.A. 89 154, eff. 7 19 95.)

615/3.13. Eggs

Sec. 3.13. “Eggs” means the shell eggs of the domesticated chicken, turkey, duck, goose, or guinea.

(Source: P.A. 79 678.)

615/3.14. Facilities

Sec. 3.14. “Facilities” means any room or place, compartment, refrigerator, or vehicle used in handling eggs in any manner.

(Source: P.A. 79 678.)

615/3.15. Graded egg

Sec. 3.15. “Graded egg” means an egg which is classified in accordance with the standards established by the Department, taking into consideration the size or weight, quality factors (interior and exterior) including condition of white and yolk, the size and condition of the air cell and cleanliness and soundness of shell.

(Source: P.A. 79 678.)

615/3.16. Handler

Sec. 3.16. “Handler” means any person including a producer dealer engaged in the business of distributing or processing eggs or egg products and may include the receiving, assembling, cleaning, grading, sorting, candling, packing, or otherwise preparing for market and selling of the

eggs and egg products, or otherwise using any eggs in the preparation of human food.

(Source: P.A. 89 154, eff. 7 19 95.)

615/3.16a. Hazardous disease infected flock

Sec. 3.16a. “Hazardous disease infected flock” means a flock of chickens that has been found to be infected with salmonella or another poultry disease that may be injurious to the health of humans.

(Source: P.A. 89 154, eff. 7 19 95.)

615/3.17. Inedible egg

Sec. 3.17. “Inedible egg” means any egg of the following description: black rot, yellow rot, white rot, mixed rot (addled egg), sour egg, egg with a green white, egg with a stuck yolk, moldy egg, musty egg, egg showing a blood ring, and an egg containing any embryo chick (at or beyond the blood ring stage), and any egg that is adulterated as that term is defined pursuant to the Federal Food, Drug and Cosmetic Act.

(Source: P.A. 89 154, eff. 7 19 95.)

615/3.18. Inspector

Sec. 3.18. “Inspector” means any employee or official authorized to inspect eggs or egg products and to enforce other regulatory measures necessary to effectively carry out the mandate of this Act.

(Source: P.A. 79 678.)

615/3.19. Institutional consumer

Sec. 3.19. “Institutional consumer” means any restaurant, hotel, boarding house, hospital, nursing home, government institution, or any other business facility or place in which eggs are prepared or offered as food for use by its patrons, residents, inmates, or patients.

(Source: P.A. 79 678.)

615/3.20. Leaker

Sec. 3.20. “Leaker” means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(Source: P.A. 79 678.)

615/3.21. Loss

Sec. 3.21. “Loss” means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a

bloody white, large meat spots, a large quantity of blood, or other foreign material.

(Source: P.A. 79 678.)

615/3.21a Lot consolidation

Sec. 3.21a “Lot consolidation” means the removal of damaged eggs from consumer labeled cartons and replacement of the damaged eggs with eggs of the same grade, size, sell-by date, brand, lot, and source.

(410 ILCS 615/6) (from Ch. 56 1/2, par. 55-6)

615/3.22. Master container

Sec. 3.22. “Master container” means any type of box or case made of plastic, wire, cardboard, or other suitable material, used to distribute consumer size containers to retailers or institutional consumers or bulk (loose) eggs to institutional consumers.

(Source: P.A. 79 678.)

615/3.23. Nest run eggs

Sec. 3.23. “Nest run eggs” means eggs which are packed as they come from the production facilities without having been washed, sized, or candled for quality, with the exception that some checks, dirties or other obvious undergrades may have been removed.

(Source: P.A. 79 1415.)

615/3.24. Official plant

Sec. 3.24. “Official plant” means any establishment at which inspection of the processing of egg products is maintained by the Department under the authority of this Act or by the United States Department of Agriculture under authority of the Federal Egg Products Inspection Act.

(Source: P.A. 79 678.)

615/3.25. Packer

Sec. 3.25. “Packer” means any person who grades, sizes, candles, and packs eggs for purpose of resale.

(Source: P.A. 79 678.)

615/3.26. Person

Sec. 3.26. “Person” means and includes any individual, partnership, firm, corporation, producer, exchange, association, trustee, receiver, or any other entity and any member officer, employee, or agent thereof.

(Source: P.A. 79 678.)

615/3.27. Processing

Sec. 3.27. "Processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(Source: P.A. 79 678.)

615/3.28. Producer

Sec. 3.28. "Producer" means a person who feeds and houses any number of chickens, turkeys, ducks, geese, or guineas and obtains eggs therefrom, but shall not include any person who obtains eggs during the hauling, transporting, holding for slaughter, or eviscerating of such chickens, turkeys, ducks, geese, or guineas.

(Source: P.A. 79 678.)

615/3.29. Producer dealer

Sec. 3.29. "Producer dealer" means a producer who candles and grades eggs of his own production or additional eggs other than his own production to sell on or off the premises to household consumers, institutional consumers, distributors, manufacturers, or retailers.

(Source: P.A. 79 678.)

615/3.30. Restricted egg

Sec. 3.30. "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(Source: P.A. 79 678.)

615/3.31. Retailer

Sec. 3.31. "Retailer" means a person who buys candled and graded eggs or egg products from a licensed manufacturer, licensed handler, or licensed distributor for resale to a consumer only, or who buys candled or graded eggs or egg products to use in the preparation of other consumer foods for resale.

(Source: P.A. 79 678.)

615/3.32. Sell

Sec. 3.32. "Sell" means offer for sale, expose for sale, have in possession for sale, barter, trade, distribute, market, or traffic in eggs in any manner.

(Source: P.A. 79 678.)

615/3.33. Shell treated egg

Sec. 3.33. "Shell treated egg" means that the shell has been treated with oil or other approved preservative preparation.

(Source: P.A. 79 678.)

615/3.34. State

Sec. 3.34. "State" means the State of Illinois.

(Source: P.A. 79 678.)

615/3.35. Federal Food, Drug, and Cosmetic Act

Sec. 3.35. "Federal Food, Drug, and Cosmetic Act" means the Act approved June 25, 1938 (52 Stat. 1040), as amended.

(Source: P.A. 79 678.)

615/3.36. Egg Products Inspection Act

Sec. 3.36. "Egg Products Inspection Act" means the federal Act approved December 29, 1970 (84 Stat. 1621), as amended.

(Source: P.A. 79 678.)

615/4. Sale of Unfit eggs or egg products

Sec. 4. Sale of unfit eggs or egg products. No person shall sell or offer for sale eggs or egg products for human consumption that are unfit for human food. For the purpose of this Act, an egg or egg product is unfit for human food if it is classified as an inedible egg or loss egg or, in the case of an egg product, it is adulterated, unwholesome, non inspected, or otherwise unfit for human consumption. Eggs from a hazardous disease infected flock shall be diverted to egg breaking plants for pasteurization only.

(Source: P.A. 89 154, eff. 7 19 95.)

615/5. Standards for grading and classification of shell eggs

Sec. 5. The Department, after investigation and public hearing, shall establish standards for grading and classification of shell eggs according to the size or weight, quality factors (interior and exterior) including condition of white and yolk, the size and condition of the air cell and cleanliness and soundness of shell. In establishing these standards, the Department may follow the standards promulgated by the United States Department of Agriculture and may, after investigation and public hearing, amend the Illinois standards from time to time so that the federal specifications can be followed consistently if so desired. Copies of any standards so established, or any amendment thereof, shall be kept on file in the office of the Director.

The Department shall promulgate a regulation providing that when eggs are purchased on a basis of grade yield, a uniform type of report shall be issued to the producer by the purchaser showing grade yield of eggs that have been purchased from the producer.

(Source: P.A. 89 154, eff. 7 19 95.)

615/6. Candling and grading - Sales by hatcheries - Labeling - Advertising

Sec. 6. Candling; labeling; sales by producers; retail sales; temperature requirements. All eggs sold at retail or purchased by institutional consumers must be candled for quality and graded for size.

A producer may sell on his own premises where eggs are produced, direct to household consumers, for the consumer's personal use and that consumer's non paying guests, nest run eggs without candling or grading those eggs.

All eggs designated for sale off the premises where the entire flock is located, such as at farmers' markets, and at retail or for institutional use must be candled and graded and held in a place or room in which the temperature may not exceed 45 degrees Fahrenheit after processing. Nest run eggs must be held and transported at or below 45 degrees Fahrenheit ambient temperature beginning 36 hours after the time of lay.

Hatcheries buying eggs for hatching purposes from producers under contract may sell their surplus eggs to a licensed packer or handler provided that the hatchery shall keep records which indicate the number of cases sold, the date of sale and the name and address of the packer or handler making the purchase.

All eggs candled or candled and graded outside the State must meet Federal standards before they can be sold or offered for sale in the State. No eggs may be offered for sale for consumer use 45 days or more after the date of candling.

Each container of eggs offered for sale or sold at wholesale or retail must be labeled in accordance with the standards established by the Department showing grade, size, packer identification, and candling date, and must be labeled with an expiration date, or other similar language as specified by USDA standards, that is not later than 45 days from the candling date for grade A eggs and not later than 30 days after the candling date for grade AA eggs.

The grade and size of eggs must be conspicuously marked in bold face type on all consumer size containers.

The size and height of lettering or numbering requirement shall be set by regulation and shall conform as near as possible to those required by Federal law.

All advertising of shell eggs for sale at retail for a stated price shall

contain the grade and size of the eggs. The information contained in such advertising shall not be misleading or deceptive. In cases of food borne disease outbreaks in which eggs are identified as the source of the disease, all eggs from the flocks from which those disease causing eggs came shall be identified with a producer identification or flock code number to control the movement of those eggs.

(Source: P.A. 101-158, eff. 7 26 19.)

615/7). Sale as “fresh eggs” or words of similar import

Sec. 7. No person, other than those who sell only eggs produced by their own flocks, shall sell, offer for sale or advertise for sale as “fresh eggs”, or under any words of similar import such as “new laid eggs”, “hennerly eggs”, or “strictly fresh eggs”, any shell eggs which do not meet the minimum requirements of Grade A prescribed by Department standards for shell eggs.

Any person buying eggs from a producer on grade or representing to buy eggs from a producer on grade shall grade those eggs on the standards established by the Department. Any misgrading for the purpose of fraud in grading eggs purchased from a producer shall be punished as provided in Section 18 of this Act.

(Source: P.A. 89 154, eff. 7 19 95.)

615/8. License to buy, sell, trade or traffic in eggs - Exceptions

Sec. 8. Any person or business who buys, sells, trades, or traffics in eggs in this State and is a broker, distributor, handler, packer, producer, or producer dealer, as defined in this Act, must be licensed in this State. A limited or full license must be purchased annually. No person or business shall buy, sell, trade, or traffic in eggs in this State without having obtained a license as provided in Section 9, except the following:

(a) a producer who obtains eggs from his own flock, regardless of the size of the flock, and sells them as nest run eggs, either to household consumers on the premises where the flock is located, or to a holder of an Illinois Egg License;

(b) hatcheries which purchase eggs to be used exclusively for hatching purposes;

(c) institutional consumers where all eggs purchased are served in the establishment;

(d) manufacturers of food products who use all eggs purchased in their products such as bakeries, confectioneries, and ice cream manufacturers, etc.;

(e) agents employed and carried on the payroll on a salary basis by .

licensed dealers or distributors;

(f) a consumer buying eggs for his own consumption;

(g) a retailer who buys eggs from licensed distributors or from licensed handlers only and sells eggs only at retail.

(Source: P.A. 92 677, eff. 7 16 02.)

615/9. License - Issuance - Fees - Expiration

Sec. 9. Licenses; fees. The Department shall issue a license to any person upon receipt and approval of a proper application and the required nonrefundable fee. The license fee and classification of the license shall be established by rule.

A license must be obtained for each separate business location and this license shall be posted in a conspicuous place at the location for which it was purchased. Licenses are non-transferable.

The application for an initial license may be filed at any time prior to beginning business as an egg handler. The licensing year for an egg license shall be July 1 through June 30. The egg license shall expire at the end of the licensing year.

A penalty of \$50 shall be assessed for any renewal license not renewed by July 1 of the year in which the license renewal is due. This penalty shall be assessed in addition to the license fee.

(Source: P.A. 96-1310, eff. 7-27-10.)

615/10. Inspection fee - Rate - Payment

Sec. 10. Inspection fee. The Director shall set, by regulation, a per case inspection fee which shall cover the administrative and inspection costs of the program required by the Act. In no case shall the rate exceed 11¢ per each 30 dozen eggs or fraction thereof.

The inspection fee as set shall be imposed upon eggs bearing a designated size and grade sold or offered for sale in Illinois. The first handler in Illinois who packed and sold the eggs must pay the prescribed inspection fee on those eggs. If eggs are shipped into Illinois, the handler who invoiced the eggs to Illinois must pay the fee. When the handler sells the eggs, the inspection fee shall be charged in addition to the sale price of the eggs and shall be remitted to the seller by the purchaser. Each sales invoice shall indicate the amount of inspection fee for the transaction. Eggs sold and shipped out of the State of Illinois by Illinois packers are exempt from the inspection fee.

The inspection fee shall be paid only once on the same quantity of eggs so long as those eggs maintain their identity by remaining in their original case, carton or package. All inspection fees shall be paid into the "Agricultural Master Fund" to the credit of a special account designated

as the “Auxiliary Egg Inspection Fund”. All amounts credited to the “Auxiliary Egg Inspection Fund” shall be used for the enforcement of the provisions of this Act. The method and manner of collecting the inspection fee levied, whether it be by the use of stamps, monthly reporting and collecting from dealers or any other method shall be prescribed by the Director of Agriculture, pursuant to rules and regulations adopted for this purpose as authorized under the provisions of this Act.
(Source: P.A. 92 677, eff. 7 16 02.)

615/11.1. (Repealed).

(Source: P.A. 80 522. Repealed by P.A. 89 154, eff. 7 19 95.)

615/11.2. (Repealed).

(Source: P.A. 80 522. Repealed by P.A. 89 154, eff. 7 19 95.)

615/11.3. (Repealed).

(Source: P.A. 79 1415. Repealed by P.A. 89 154, eff. 7 19 95.)

615/11.4. (Repealed).

(Source: P.A. 79 678. Repealed by P.A. 89 154, eff. 7 19 95.)

615/11.5. Investigations of complaints - Hearing Notice - Subpoenas

Sec. 11.5. Investigation; notice; hearing. The Department may, upon its own motion or upon the complaint in writing of any person setting forth facts which if proved would constitute grounds for refusal to issue or renew a license or suspension or revocation of a license under this Act, investigate the actions of any applicant or any person or persons applying for, holding, or claiming to hold a license.

The Department, before refusing to issue or renew or before suspending or revoking a license shall set a date for a hearing thereon. At least 10 days prior to the date set for the hearing, the Department shall notify in writing the applicant for or holder of a license of the date, time, and place of the hearing. Written notice may be served by personal service or by mailing the same by registered or certified mail. The Director may, after a hearing, issue an order to either issue, renew, suspend, or revoke the license.

(Source: P.A. 89 154, eff. 7 19 95.)

615/12. Invoices

Sec. 12. Each producer dealer, packer, handler or distributor who sells candled and graded eggs to any retailer, institutional consumer, bakery, or concern which purchases eggs for serving to guests or patrons thereof or for its use in preparation of any food products for human consumption,

shall furnish the purchaser with an invoice or other accounting document covering each sale, showing the exact grade and size of the eggs purchased.

The handler selling and the purchaser shall each be able to produce a copy of said invoice or other accounting document at his place of business for a period of 30 days, during which time the copy shall be available for inspection during reasonable business hours by a representative of the Department.

(Source: P.A. 89 154, eff. 7 19 95.)

615/13. Rules and Regulations

Sec. 13. The Director shall make rules and regulations necessary for the effective administration of this Act. These rules and regulations shall conform as near as possible but need not be limited by rules and regulations established by federal law in the Egg Products Inspection Act, governing the inspection of eggs.

The Director is hereby authorized to cooperate with all other agencies, Federal, State and municipal, in order to carry out the effective administration of this Act and to establish a trust fund in the appropriate State agencies for receipt and disbursement of cooperative funds from the Federal Government.

(Source: P.A. 89 154, eff. 7 19 95.)

615/14.1. (Repealed).

(Source: P.A. 79 678. Repealed by P.A. 89 154, eff. 7 19 95.)

615/14.2. Powers of department and its inspectors and agents

Sec. 14.2. For the purpose of carrying out the provisions of this Act and the rules and regulations promulgated thereunder, the Department through its authorized inspectors or agents is empowered:

(a) To enter on any business day during the usual hours of business, any place or conveyance within the State where eggs are produced, candled, incubated, stored, packed, delivered for shipment, loaded, shipped, transported or sold;

(b) To enter on any business day during the usual hours of business, with or without the presence of the owner, manager, or other responsible person, any restaurant kitchen or the kitchen and food storage area of any other public eating place including but not limited to hotels, boarding houses, hospitals, nursing homes, government institutions, or any other business facility or place in which eggs or egg products are stored, prepared, or offered as food for use by its patrons, residents, inmates, or patients;

(c) To enter on any business day during the usual hours of business

the cooking or food preparation area of any bakery where eggs and egg products are used in the manufacture of bakery products, with or without the presence of the owner or persons employed as bakers, or to enter at any time while those bakery products are being prepared.

(d) To sample any eggs or egg products for analysis or testing. Sample eggs or egg products shall be furnished at no cost to the Department.

(e) To inspect all invoices, eggs and egg products, and the cases and containers for eggs or egg products and the equipment found in the places or conveyances described in paragraph (a) and to seize and hold as evidence an advertisement, sign, placard, invoice, case or container of eggs or egg products, or all or any part of any pack, load, lot, consignment, or shipment of eggs or egg products packed, stored, delivered for shipment, loaded, shipped, transported, or sold in violation of any provision of this Act. Possession of a commodity described in this Section by any person engaged in the sale of that commodity is prima facie evidence that the commodity is for sale.

(Source: P.A. 89 154, eff. 7 19 95.)

(f) To seize and hold any case or container of eggs or egg products from any person or business who is not licensed under Section 8 of this Act and is required to be licensed.

Possession of a commodity described in this Section by any person engaged in the sale of that commodity is a prima facie evidence that the commodity is for sale.

(Source: P.A. 96-1310, eff. 7-27-10.)

615/14.3. (Repealed).

(Source: P.A. 79 678. Repealed by P.A. 89 154, eff. 7 19 95.)

615/15. Samples for representation of entire lots - Packing in consumer size containers

Sec. 15. Samples; packing methods.

(a) The Department shall prescribe methods in conformity with the United States Department of Agriculture specifications for selecting samples of lots, cases or containers of eggs or egg products which shall be reasonably calculated to produce fair representations of the entire lots or cases and containers sampled. Any sample taken shall be prima facie evidence in any court in this State of the true condition of the entire lot, case or container of eggs or egg products in the examination of which the sample was taken.

It shall be unlawful for any handler or retailer to pack eggs into consumer size containers other than during the original candling and grading operations unless the retailer performs a lot consolidation.

(b) A retailer that wishes to consolidate eggs shall implement and administer a training program for employees that will perform the consolidation as part of their duties. The program shall include, but not be limited to, the following:

- (1) Laws governing egg lot consolidation:
 - (A) same lot code;
 - (B) same source;
 - (C) same sell-by date;
 - (D) same grade;
 - (E) same size;
 - (F) same brand;
- (2) temperature requirements;
- (3) egg is a hazardous food (FDA Guidelines);
- (4) sanitation;
- (5) egg quality (USDA guidelines);
- (6) original packaging requirements (replacement cartons shall not be utilized); and
- (7) record keeping requirements.

(c) Training shall be conducted annually and may be conducted by any means available, including, but not limited to, online, computer, classroom, live trainers, and remote trainers.

(d) A copy of the training material must be made available upon request from the Department. A copy of the training material may be kept electronically.

(e) Eggs shall be consolidated in a manner consistent with training materials required by subsection (b).

(f) Each store shall maintain a record of each egg carton consolidated. The records shall be maintained by the store at the physical location the eggs were consolidated at for a period not less than one year past the last sell-by date on the cartons consolidated. The records must be available for inspection upon request from the Department. The records may be kept electronically. Each lot consolidation shall be documented. The information documented shall include, but not be limited to, the following:

- (1) date of consolidation;
- (2) brand;
- (3) egg size;
- (4) distributor;
- (5) USDA plant number;
- (6) grade; and
- (7) best-by (sell-by/use-by) date.

(g) An Illinois-based egg producer or Illinois-based egg producer-dealer may prohibit its brands from being included in an egg lot

consolidation program. Any Illinois-based egg producer or Illinois-based egg producer-dealer that chooses to prohibit its brands from being included in an egg lot consolidation program shall notify a retailer in writing before entering into an agreement to distribute its eggs to the retailer. Producers or producer-dealers with agreements entered into prior to the effective date of this Act shall have 90 days after the effective date of this Act to notify retailers in writing of their choice to prohibit consolidation of their egg brands. Upon notification from an Illinois-based producer or Illinois-based producer dealer, a retailer shall not consolidate those brands.

(Source: P.A. 92 677, eff. 7-16-02.)

615/16. Egg breaking establishments - License - Fee - Inspection

Sec. 16. Effective November 1, 1975, no person shall engage in the business of removing eggs from their shells, in the manufacture of or preparation of frozen, liquid, desiccated or any other forms of whole eggs, yolks, whites or any mixture of yolks and whites for food purposes, with or without the addition of any other wholesome ingredients, without first obtaining an Egg Breaker's License from the Department. The Department shall inspect the establishment and the equipment to be used in the egg breaking establishment and shall also ascertain if the establishment complies in method, equipment and the rules and regulations in regard to sanitation, which shall from time to time be established by the Department to govern these establishments. If, after such inspection, it appears that such establishment complies with the provisions of the rules and regulations in regard to sanitation governing egg breaking establishments, the Department shall issue an Egg Breaker's License to the establishment, upon payment of the required fee. Beginning on November 1, 2010, the license year shall begin on November 1 and expire on June 30, 2011. Thereafter, the license year shall begin on July 1 of each year, and all licenses shall expire on June 30 of the following year. The license fee shall be \$200 for a year or fraction thereof.

All liquid, frozen or dried egg products sold or offered for sale shall be processed under continuous supervision of an inspector of the Department or the United States Department of Agriculture in an Official Plant as specified in the Egg Products Inspection Act.

(Source: P.A. 91 357, eff. 7 29 99.)

615/16.5. Violations and administrative monetary penalties.

Sec. 16.5. Violations; administrative monetary penalties. The Director is authorized to hold administrative hearings to determine violations of this Act or the Department's rules and regulations adopted under this Act. After finding that a

violation has occurred, the Director may impose administrative monetary penalties as follows:

(1) Against a licensee who sells or offers for sale non-inspected frozen, liquid, or dried egg products:

(A) \$500 for a first violation.

(B) \$1,000 for a second violation within 2 years after the first violation.

(C) \$2,000 for a third or subsequent violation within 2 years after the immediately preceding violation.

(2) Against a licensee who makes a false, deceptive, or misleading statement, representation, or assertion concerning the quality, size, weight, or condition of, or any other matter relating to advertising and selling, eggs and egg products:

(A) \$200 for a first violation.

(B) \$500 for a second violation within 2 years after the first violation.

(C) \$1,000 for a third or subsequent violation within 2 years after the immediately preceding violation.

(3) Against a licensee who furnishes an invoice, statement, or bill showing a standard of size, standard of quality, representation of freshness, or any other description of eggs or egg products that is false, deceptive, or misleading in any particular:

(A) \$200 for a first violation.

(B) \$500 for a second violation within 2 years after the first violation.

(C) \$1,000 for a third or subsequent violation within 2 years after the immediately preceding violation.

(4) Against any person who resists, hinders, obstructs, or in any way interferes with any officer, inspector, or employee of the Department in the discharge of his or her duties under the provisions of this Act, \$300.

(5) Against any person who buys, sells, trades, or barter eggs in this State without having obtained a license, \$300.

(6) For all other violations:

(A) \$200 for a first violation.

(B) \$400 for a second violation within 2 years after the first violation.

(C) \$600 for a third or subsequent violation within 2 years after the immediately preceding violation.

(7) Against any person who sells or wholesales eggs, who has been notified pursuant to the notification provision in this Section, to any

person or business not licensed by the Department who buys, sells, trades, or traffics in eggs in this State:

(A) \$200 for a first violation.

(B) \$500 for a second violation within 2 years after the first.

(C) \$1,000 for a third or subsequent violation within 2 years after the immediately preceding violation.

The Department shall notify any person who sells or wholesales eggs to any person or business not licensed by the Department who buys, sells, trades, or traffics eggs in this State that he or she may not sell, trade, or traffic eggs with the non-licensed person or business. A copy of the notice shall be either served personally or served by registered or certified mail on the person who sells or wholesales eggs. Proof of service of the notice shall be made by affidavit of the person making personal service or by the registered or certified mail receipt.

A penalty not paid within 60 days after it is due may be submitted to the Attorney General's office or an approved private collection agency for collection.

(Source: P.A. 96-1310, eff. 7-27-10.)

Sec. 16.6. Violations; penalties.

Sec. 16.6. Violations; penalties. Any person knowingly violating this Act or any rule or order of the Department issued pursuant to this Act shall be guilty of a Class C misdemeanor. Each day of violation constitutes a separate offense. In the event the person violating this Act or any rule or order issued pursuant to the Act is a corporation or partnership, any officer, director, manager, or managerial agent of the corporation or partnership who violates this Act or causes the corporation or partnership to violate this Act is guilty of a Class C misdemeanor.

615/16.7 Suspension and Revocation of license

Sec. 16.7. Suspension and revocation of license.

(a) The Director may suspend a license if the Department has reason to believe that any one or more of the following has occurred:

(1) A licensee has made a material misstatement in an application for an original or renewal license under this Act.

(2) A licensee has violated this Act or any rules adopted under this Act, and the violation or pattern of violations indicates a danger to public health.

(3) A licensee has aided or abetted another in the violation of this Act or any rule adopted under this Act, and the violation or pattern of violations indicates a danger to public health.

(4) A licensee has allowed his or her license to be used by an unlicensed person.

(5) A licensee has been convicted of a felony violation of this Act or any crime an essential element of which is misstatement, fraud, or dishonesty.

(6) A licensee has made a false, deceptive, or misleading statement, representation, or assertion concerning the quality, size, weight, or condition of, or any other matter relating to advertising and selling of, eggs and egg products.

(7) A licensee has failed to possess the necessary qualifications or to meet the requirements of this Act for the issuance or holding of a license.

(8) Failure to pay any fine or fee assessed by the Department within 60 days after the date of the fine or fee was levied or otherwise due.

(b) Within 10 days after suspending a person's license, the Department must commence an administrative hearing to determine whether to reinstate or revoke the license. After the Department schedules the administrative hearing, but no later than 5 days before the scheduled hearing date, the Department shall serve on the licensee written notice of the date, place, and time of the hearing. The Department may serve this notice by personal service on the licensee or by registered or certified mail, return receipt requested, to the licensee's place of business. After the hearing, the Director shall issue an order either reinstating or revoking the license.

(Source: P.A. 96-1310, eff. 7-27-10.)

Sec. 16.9. Termination of application; forfeiture of license fee.

Sec. 16.9. Termination of application; forfeiture of license fee. Failure of any applicant to meet all of the requirements for compliance within 60 days after receipt of a license application shall result in termination of the application and forfeiture of the license fee.

615/17. (Repealed).

(Source: P.A. 79 678. Repealed by P.A. 89 154, eff. 7 19 95.)

615/17.5. Subpoenas

Sec. 17.5. Subpoenas. The Director may issue subpoenas, may bring before the Department any person, and may take testimony either at an administrative hearing or by deposition, with witness fees and mileage fees and in the same manner as prescribed in the Code of Civil Procedure. The Director may administer oaths to witnesses at any proceeding that

the Department is authorized by law to conduct. The Director may issue subpoenas duces tecum to command the production of any records relating to any person. Subpoenas are subject to the rules of the Department.

If a person fails to obey a subpoena, the Director or any person who caused the subpoena to be issued may cause a petition for enforcement of the subpoena to be filed in the circuit court of the county of residence or principal place of business of the person who failed or refused to obey the subpoena or in Sangamon County. The circuit court has jurisdiction to enforce the subpoena.

(Source: P.A. 89 154, eff. 7 19 95.)

615/18. (Repealed).

(Source: P.A. 83 1362. Repealed by P.A. 89 154, eff. 7 19 95.)

615/18.5. Administrative procedure

Sec. 18.5. Administrative procedure. The Illinois Administrative Procedure Act and the Department's rules concerning administrative hearings apply to this Act.

(Source: P.A. 89 154, eff. 7 19 95.)

615/19. Review under Administrative Review Law

Sec. 19. All final administrative decisions of the Department are subject to judicial review under Article III of the Code of Civil Procedure and rules adopted under that Article. The term "administrative decision" is defined as in Section 3 101 of the Code of Civil Procedure. Proceedings for judicial review shall be commenced in the circuit court of any county permitted by Section 3 104 of the Code of Civil Procedure.

(Source: P.A. 89 154, eff. 7 19 95.)

615/20. Deposit of fees and civil penalties

Sec. 20. Deposit of fees and civil penalties. All license fees and penalties collected under this Act shall be paid into the Agricultural Master Fund.

(Source: P.A. 89 154, eff. 7 19 95.)

615/21. Partial invalidity

Sec. 21. The invalidity of any Section or parts of any Section of this Act or any rule or regulation pursuant thereto shall not affect the validity of the remainder of this Act, or any rule or regulation.

(Source: P.A. 79 678.)

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT
REGULATIONS)
PART 65 EGG AND EGG PRODUCTS ACT

Section

- 65.10 Definitions and Incorporations
- 65.20 Packaging Material, Master Containers, Packing Material
and Consumer-Size Containers
- 65.30 Consumer Container Labeling Requirements
- 65.40 Restrictions
- 65.50 Master Container Labeling Requirements
- 65.60 Advertising
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- 65.170 Retail Egg Inspection
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- 65.190 Restricted Eggs (Definition, Labeling, Handling,
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- 65.200 Denaturants
- 65.210 Egg Inspection Fee
- 65.220 Illinois Grade Standards
- 65.230 Administrative Hearings (Repealed)

AUTHORITY: Implementing and authorized by Section 13 of the Illinois Egg and Egg Products Act [410 ILCS 615/13].

SOURCE: Rules and Regulations for the Illinois Egg and Egg Products Act, filed October 28, 1975, effective November 1, 1975; amended March 2, 1976, effective March 12, 1976; amended December 29, 1976, effective January 1, 1977; codified at 5 Ill. Reg. 10449; amended at 7 Ill. Reg. 2311, effective February 14, 1983; amended at 17 Ill. Reg. 6749, effective April 27, 1993; amended at 19 Ill. Reg. 16933, effective January 1, 1996; amended at 21 Ill. Reg. 900, effective January 7, 1997; amended at 28 Ill. Reg. 2072, effective February 1, 2004; amended at 29 Ill. Reg. 14774, effective October 1, 2005; amended at 35 Ill. Reg. 2578, effective April 1, 2011; amended at 43 Ill. Reg. 4799, effective April 15, 2019.

Section 65.10 Definitions and Incorporations

- a) Words in the singular form shall be deemed to include the plural, words in the masculine form shall be deemed to include the feminine form, and vice versa, as the case may require. As used in these rules the following terms shall have the meanings specified:

“Act” means The Illinois Egg and Egg Products Act [410 ILCS 615].

“Deceptive” – Any arrangement of the contents of any consumer-size container or master container, or of any lot, load or display in which the eggs in the outer layer or in any portion exposed to view are in quality, size, condition or in any other respect superior to those in the interior or unexposed portion as to materially misrepresent the contents or any part thereof as to size, quality, condition or any other respects.

“Eggs sold at retail” – It shall be considered that shell eggs are being sold at retail when they are offered for sale or sold to a consumer off the premises where the flock is maintained.

“First receiver” means the first recipient of the eggs from a producer.

“Mislabel” – The placing or presence of any false, deceptive or misleading mark, term, statement, design, device, inscription or any other designation upon a consumer-size container or master container of eggs or upon the label, lining or wrapper thereof, or upon a placard or sign used in connection therewith, or in connection with any display having reference to eggs.

“Sufficient strength and durability” means that the master container must be rigid and capable of supporting 4 or 5 full master containers when

stacked as commonly occurs when such master containers are shipped.

- b) No incorporation by reference in this Part includes any later amendment or edition beyond the date stated.

(Source: Amended at 29 Ill. Reg. 14774, effective October 1, 2005)

Section 65.20 Packaging Material, Master Containers, Packing Material and Consumer-Size Containers

- a) Eggs sold at retail may be packaged only in new consumer-size containers with the exception that ungraded eggs sold directly by producers to household consumers may be packaged in unmarked new or unmarked good used consumer-size containers.
- b) All eggs sold at retail must be prepackaged.
- c) Only new or good used master containers may be used for the distribution of eggs. All master containers including plastic and wire baskets must be clean, free of mold and dirt, mustiness, and of odors, and must be of sufficient strength and durability to protect the eggs from damage during normal distribution. Cardboard master containers showing obvious “fatigue” defects, such as, master containers with torn sections exposing contents of the master containers or which have lost their original shape due to warping, bulging, sagging or denting shall not be used.
- d) Packing material, including but not limited to flats and fillers, plastic or pulp fillerflats, may be new or used provided they are clean, free from stain and odors, from mold and dirt, from mustiness, thoroughly dry and of sufficient rigidity to prevent damage during handling and distribution.
- e) Eggs sold at retail may be prepackaged by handlers only in new consumer-size containers. Polystyrene (shrink wrap) may be used in the prepackaging of eggs offered for sale at the retail level. Wrapping fillerflats or any other open container of eggs in newspaper, butcher paper, or other type of sheet material is prohibited. No retailers will buy loose or bulk eggs and put them into cartons or containers of any kind or sort whatsoever.

- f) In accordance with Section 3.7 of the Act, consumer-size containers shall automatically be approved for use if they comply with the labeling requirements (see 8 Ill. Adm. Code 65.30) and protect the eggs from damage during normal distribution. Upon examination, if the Department finds evidence that the container is not protecting the eggs from damage, the packer shall receive written notification either personally, or by registered or certified mail that the containers cannot be used beginning 30 days from the date notice of discontinuance is given by the Department. Consumer-size containers which are found in violation of the labeling requirements cannot be used until correction is made.

(Source: Amended at 7 Ill. Reg. 2311, effective February 14, 1983)

Section 65.30 Consumer Container Labeling Requirements

- a) All shell eggs sold by a producer-dealer, packer, handler, or distributor to a retailer for resale to a consumer shall be labeled on the consumer-size container with the grade and size. Labeling shall be in bold type with letters not less than $\frac{3}{8}$ inch in height, no abbreviations permitted.
- b) Labeling on each consumer-size container must show the name and address of the packer or the name and address of the distributor or retailer under whose authority the eggs were packed. This identification must be permanent either by stamping or printing in bold type with letters not less than $\frac{1}{8}$ inch in height.
- c) Each consumer-size container must include in its label numbers expressed in a three-digit Julian code not less than $\frac{1}{8}$ inch in height indicating the exact consecutive day of the year on which the determination of grade and size was made. Predating is not permitted. Illegible dates shall be considered as no dates. Candling dates must be separated from any other codes that may appear on the carton.
- d) In addition to the above labeling requirements, it shall be allowable to include expiration dates in the labeling of consumer-size containers at retail. An expiration date, or other similar language as specified by USDA standards, that is not later than 45 days from the candling date for Grade A eggs and not later than the 30 days from the candling date for Grade AA eggs shall be used.

Eggs with an expiration date marked on the container shall not be offered for sale or sold to a consumer after the date marked on the container.

(Source: Amended at 29 Ill. Reg. 14774, effective April 15, 2019)

Section 65.40 Restrictions

- a) No person shall sell or offer for sale shell eggs to retailers, institutional consumers, or food manufacturers in this State that do not meet the requirements of Grade B quality or better (see 8 Ill. Adm. Code 65.220), except that producers may sell directly to household consumers nest run eggs produced by their own flocks.
- b) The Illinois Egg and Egg Products Act and these rules (8 Ill. Adm. Code 65) shall also apply to all eggs shipped into Illinois and offered for sale or sold in this State.

(Source: Amended at 7 Ill. Reg. 2311, effective February 14, 1983)

Section 65.50 Master Container Labeling Requirements

- a) All master containers, whether full or partial containing bulk (loose) eggs offered, exposed or packed for sale, or transported for sale within the State shall bear a label stamped on the container or a removable tag affixed to the container on the top rung showing the following information in a conspicuous manner:
 - 1) Grade and size – in letters not less than ½ inch in height.
 - 2) Name and address of packer or Illinois Egg License number or USDA plant number or egg license number from another state where eggs were packed, in letters not less than ¼ inch in height.
 - 3) The exact date on which the eggs were candled and graded. This candling date must be legible and accurate, and expressed in a three-digit Julian code not less than ¼ inch in height indicating the exact consecutive day of the year on which the determination of grade and size was made. Predating is not permitted. Illegible dates shall be considered as no dates.

- 4) In addition to the above labeling requirements, an expiration date shall be required on all loose pack master containers. Use of qualifying prefixes required by USDA standards is allowable.
- b) Wire or plastic baskets (master containers) containing consumer-size cartons with the labeling information required by 8 Ill. Adm. Code 65.30 exposed to view are exempt from labeling the master container itself.
- c) Master containers, containing consumer-size containers where the labeling information is not exposed to view, must be labeled with one of the following means of identification:
 - 1) name and address of packer;
 - 2) state license number;
 - 3) USDA plant number; or
 - 4) egg license number from another state.

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.60 Advertising

- a) No person other than those persons who sell only nest run eggs produced by their own flocks shall sell, offer for sale or advertise for sale shell eggs as “fresh eggs”, “hennery eggs”, or “strictly fresh eggs”, any eggs which do not meet the minimum requirements for consumer Grade A as prescribed in the Department standards for individual shell eggs (see 8 Ill. Adm. Code 65.220).
- b) No eggs shall be advertised or labeled as “organic eggs” or “fertile eggs”, including but not limited to any other claims of unusual interior quality or superiority, until a statement of proof is submitted to the Director and inspection to confirm the claim is made. An egg shall be considered a fertile egg when the ratio of roosters to hens is not less than 8 roosters per 100 hens. An egg may be advertised as an organic egg when it has been certified organic by a USDA accredited certifying agency for having met all the conditions of the National Organic Program (7 CFR 205 (2000)).

- c) Eggs shall not be advertised when a price is stated or implied without also designating the correct grade and size. In accordance with the provisions of Sections 7 and 17 (a) and (b) of the Act and 8 Ill. Adm. Code 65.10, advertising information shall not be misleading or deceptive. This subsection applies to all forms of advertising including, but not limited to newspaper, periodical, window, display case, radio, television, and handbill.

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.70 Brand or Firm Name

No person except a bona fide producer as defined in the Act shall use a component of a brand name or company name any word or words which carry the connotation that he is in fact a producer or owns or operates facilities for that purpose. With the exception, that brand names carrying such connotations in use prior to November 1, 1975 shall be permitted to continue in use.

(Source: Rules and Regulations relating to the Illinois Egg and Egg Products Act, filed March 2, 1976, effective March 12, 1976)

Section 65.80 Food Preparation

Restaurants, institutional consumers, and food manufacturers shall receive and use only clean sound shell eggs of Grade B quality or better. They may buy dried, frozen or liquid eggs only if such products are prepared and pasteurized in a plant under USDA continuous inspection and carry the USDA inspected egg products legend.

(Source: Amended at 19 Ill. Reg. 16933, effective January 1, 1996)

Section 65.90 Holding Temperature

- a) From the point of candling and grading (including transportation), all eggs designated for human consumption shall be held at a temperature not to exceed 45° F. ambient temperature after processing until they reach the retailer.
- b) All shell eggs shall be kept from freezing.

- c) Nest run eggs shall be held at 60° F. or less at all times, including during transportation.

(Source: Amended at 21 Ill. Reg. 900, effective January 1, 1997)

Section 65.100 Application for License or Renewal; Revocation or Suspension of License

- a) Except for those businesses exempted in Section 8 of the Act, applications for a license to operate as a handler, egg breaking establishment or any other business which buys, sells, trades or traffics in eggs, such as, egg packing, handling and processing plants, shall be made on forms supplied by the Department. Persons who ship shell eggs into Illinois from any other state via their own trucks, leased trucks, or common carrier must have Illinois Egg Licenses. All shipments of such eggs shall meet Federal standards (21 USCA 1031 et seq. and 7 CFR 56 (2004) and 7 CFR 59 (2004)) and be in compliance with this Part. Egg breaking establishments located in this State or located outside the State but who sell or purchase shell eggs in Illinois must obtain an Illinois Egg License and thereby become subject to all provisions of the Act and to the rules governing the sale and purchase of shell eggs in this Part.
- b) New applicants for licenses shall state the type of license desired (Section 65.110) when requesting an application form. Applications for renewal of licenses shall be mailed by the Department to the licensee at the address on the application. The application for an egg license shall include the name to appear on the license, and the address where the applicant engages in the business of buying eggs, information as to the type of license being applied for, name under which the license was previously issued and license number if it is a request for renewal of license and information on officers or partners, if applicable.
- c) The application for license to operate an egg breaking establishment shall request the name to appear on the license and the address of the business. Applicant's business must meet standards as set forth in Section 65.140.

- d) Inaccurate or missing information on the application will be grounds for revoking or refusing to issue a license. Before refusing to issue or renew or before suspending or revoking a license or refusing to issue or revoking a grace period for renewal, the Department shall comply with the provisions of Section 11.5 of the Act. The administrative hearing shall be conducted in accordance with Section 18.5 of the Act.

(Source: Amended at 29 Ill. Reg. 14774, effective October 1, 2005)

Section 65.110 Licenses

- a) The classifications of egg licenses and license fees for Illinois Egg Licenses (Full and Limited) are:
 - 1) Illinois Egg License (Full) is required for the following business:
 - A) Producer-dealer (as defined in Section 3.29 of the Act and who sells eggs produced by his or her own flock or additional eggs from other than his or her own production) – \$50.
 - B) Grading station (candles and grades nest run eggs from various producers) – \$50.
 - C) Jobber or broker (as defined in Section 3.2 of the Act) – \$50.
 - D) Distributor (as defined in Section 3.11 of the Act) – \$50.
 - 2) Illinois Egg License (Limited) is required for a producer-dealer (as defined in Section 3.29 of the Act, except that a limited licensee may only sell eggs of his or her own production) \$15.
 - 3) Egg Breaker's License (egg breaking establishment as defined in Section 16 of the Act). The license fee as set in Section 16 of the Act is \$200.

- b) A license will be issued if the applicant complies with the requirements of Sections 9 and 16 of the Act (as applicable to the type of license desired) and this Part.
- c) Illinois Egg Licenses must be posted conspicuously at the place of business of the holder so the license may be seen by the public and by the inspectors of the Department of Agriculture at any and all hours of the working day.
- d) Truckers purchasing eggs from an Illinois producer are required to have an Illinois Egg License or photostatic copy of the license displayed in the cab.
- e) A separate license must be obtained for each business location.
- f) A place of business means a location where any person buys eggs from producers, or buys from or sells to institutional consumers, retailers, manufacturers or handlers. A truck or vehicle shall be considered a place of business provided no building is used for this purpose. Any person who operates his business from a vehicle in the State must provide to the Department a legal address for contact.
- g) Licenses are non-transferable. In the event of a sale of a licensed business, the purchaser will be required to make application for a new license.

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.120 Surety Bond or Certificate of Deposit (Repealed)

(Source: Repealed at 19 Ill. Reg. 16933, effective January 1, 1996)

Section 65.130 Required Forms and Records

- a) Grade Buying Slip
 - 1) When eggs are purchased from the producer on a graded basis, a grade buying slip shall be issued by the purchaser to the producer showing that eggs are of one or more of the following grade and size designations stating the quantity of

each. Every grade buying slip shall carry a minimum of these six designations:

A Large	B Grade
A Medium	Restricted
A Small	Loss

- 2) The grade buying slip must identify the producer and the purchaser and show the date of purchase and the date of grading. Eggs purchased from producers on a graded basis shall be candled and graded by the first receiver before the close of the fifth business day after receipt of the eggs at the grading facility, unless otherwise agreed to by both parties, and unless they are sold as “Nest Run Eggs”, in which event they must be assigned a nest run grade and a weight class as defined in 7 CFR 56.230, 56.231, and 56.232 (2004) in the Federal standards for shell eggs.
- 3) If quality factors preclude the assignment of a nest run grade, that grade must be stated on the invoice accompanying the sale of the eggs to the second receiver.
- 4) Other grade and size classifications may be used in addition to those specified in subsection (a) (1). When other grades are added, they must conform with the Federal egg grading standards adopted in Section 65.220. The term “restricted” shall be used to designate all edible eggs below B quality (see Section 65.190 (a)). A quantitative breakdown of the various types (i.e., checks, dirties, etc.) of restricted eggs shall be shown.

b) Invoice

- 1) When eggs are sold by a licensed handler to another handler or retailer for ultimate resale to consumers, or to an institutional consumer or manufacturer for use in preparation of food for human consumption, an invoice or other accounting document must accompany the eggs.
- 2) The invoice or other accounting document must show the name and address of the seller, including the physical address from where the eggs were shipped (P.O. boxes are not acceptable),

the name and address of the purchaser, and the exact grade and size of the eggs sold according to State grade standards (see Section 65.220). The handler paying the inspection fee shall indicate, on each sales invoice, the amount of the inspection fee for the transaction in addition to the price of the eggs (see Section 65.210).

- 3) Both seller and buyer must keep a copy of this invoice or other accounting documents on file, for a period of 6 months, at the location where the eggs are being held or sold.

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.135 Egg Lot Consolidation

- a) Cartons used for egg lot consolidation must be clean.
- b) All lot consolidation training must be preapproved by the Department.
- c) Only trained personnel can perform lot consolidation at the retail level. A dated record must be kept and must be accessible at the retail store, listing all trained individuals who have been approved to perform lot consolidation. The employer bears the responsibility for training personnel and maintaining all records.
- d) Lot consolidation records must include each trained individual's name and the date of the lot consolidation. The Department can access timekeeping records to verify that the trained employee was working on the date of lot consolidation.
- e) Any retailer that wants to engage in egg lot consolidation must notify the Department either in writing or by electronic method listing each specific address of the retail location where it would like to perform egg lot consolidation. This requested location listing should be updated on an annual basis by the retailer.
- f) A second inspection fee is not payable to the Department on eggs consolidated.

(Source: Added at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.140 Minimum Sanitation, Building and Labeling Requirements for Egg Breaking Establishments

Illinois standards for sanitation, building and labeling requirements for egg breaking establishments shall be those as required by the Federal Egg Products Inspection Act (21 USCA 1035 and 1036) and its rules (7 CFR 59 (2004)).

(Source: Amended at 29 Ill. Reg. 14774, effective October 1, 2005)

Section 65.150 Minimum Sanitation and Operating Requirements for Shell Egg Grading Plants, Not Under Federal Inspection, Engaged in the Grading, Storage, Packaging and Distribution of Eggs

- a) Buildings shall be of sound construction so as to prevent the entrance or harboring of vermin.
- b) All areas and rooms in which eggs are handled, graded, and packed shall be kept reasonably clean during working hours and shall be thoroughly cleaned at the end of each operating day.
- c) Cooler rooms shall be free from objectionable odors, such as mustiness or a rotten odor, and shall be maintained in a clean sanitary condition.
- d) Oil processing of shell eggs to preserve quality shall be conducted in a manner as will avoid contamination of the eggs. The temperature of the processing oil must be warmer than the temperature of the eggs to which it is applied.
 - 1) Oil having any off odor or oil that is obviously contaminated shall not be used. Processing oil that has been previously used and that has become contaminated shall be filtered and heated to 180° F. for three minutes prior to reuse.
 - 2) Oil treating equipment shall be washed, rinsed and treated with a bactericidal agent each time the oil is removed. It is preferable to filter and heat treat processing oil and clean processing equipment daily when in use. Equipment shall be covered when not in use to keep it clean.

- 3) Eggs with apparent moisture on the shell shall not be oil treated.
- e) Egg cleaning equipment shall be kept in good repair and shall be thoroughly cleaned after each day's use or more often if necessary to maintain a sanitary condition. The wash water shall be potable and maintained at a temperature of 90° F. minimum. The wash water temperature must be at least 20° greater than the egg temperature. The wash water shall be replaced frequently and the detergent and sanitizer shall be kept at an effective level at all times.
 - 1) During any rest period, or at any time when the equipment is not in operation, the eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a build-up of heat.
 - 2) Only USDA or Federal approved cleaning and sanitizing compounds may be used (7 CFR 59.515 (2004)). Washed eggs shall be reasonably dry before cartoning or casing.
- f) Washing eggs by hand, or by any other method in which the water temperature, cleaning and sanitizing agents, and bacterial contamination cannot be controlled, is prohibited.
- g) Motor driven rotary cleaning pads, hand sanding, or other "dry cleaning" devices may be used to clean eggs, but they are not recommended. Dry cleaning pulverizes the dirt, thereby spreading it over all adjoining surfaces, including eggs. In the absence of an adequate air filtering system, the process shall be considered as air pollution and a health hazard for persons handling the eggs.

(Source: Amended at 29 Ill. Reg. 14774, effective October 1, 2005)

Section 65.160 Minimum Sanitation Requirements for Retailers and Institutional Consumers

- a) Only new packaging material will be used to sell eggs at retail. This regulation applies to any size container and the packing material used therein.

- b) Display cases in which eggs are offered for sale to consumers must be clean and free from any substances or conditions whereby the eggs could become adulterated through absorption of bacteria or odors which would affect the quality of taste of the eggs.
- c) All storage areas where eggs are held prior to being placed in display cases or other area accessible to consumers must be continuously maintained in a clean and sanitary condition. Eggs will not be stored in the same area with:
 - 1) consumer-size containers which have been rejected for damaged eggs,
 - 2) onions, fish, and other strong smelling food items,
 - 3) cleaning compounds, pesticides or any other chemicals of any kind or sort whatsoever.
- d) Institutional consumers shall not keep shell eggs in the kitchen or cooking area for longer than one hour from the time they are removed from the cooler.
- e) Retailers and institutional consumers should keep their supplies of eggs properly rotated at all times so that the oldest eggs as determined by the candling date on the master containers or consumer-size containers are used first.
- f) Consumer-size containers holding damaged eggs whereby the contents are exuding or free to exude through the shell membranes shall be removed from the display area. If such damage results in spillage of egg contents on other cartons or upon the bottom of the display case, the cartons or display case floor must be cleaned within a reasonable time.
- g) In all storage areas, master containers shall be kept above the floor at all times.

(Source: Amended at 21 Ill. Reg. 900, effective January 1, 1997)

Section 65.170 Retail Egg Inspection

- a) When an inspector selects inspection samples to ascertain compliance with the Egg and Egg Products Act and this Part as

they apply to grade and size of shell eggs, such samples shall be taken from either the holding area or display area.

- b) If a disproportionate number of checks and leakers are found indicating the lack of reasonable store surveillance of the egg display, the inspector will issue a violation notice. In determining if a violation exists, the inspector will consider the damage possibly inflicted by the store's patrons, past inspection history indicating previous lack of surveillance of the egg display, and whether the number of checks and leakers exceed minimum federal egg grading standards (7 CFR 56 (2004)).

(Source: Amended at 29 Ill. Reg. 14774, effective October 1, 2005)

Section 65.180 Enforcement

- a) Stop Sale Notices. Inspectors of the Department of Agriculture, upon determining that the provisions of the Act or the rules promulgated for its enforcement have been violated, shall place "Stop Sale Notices" on eggs being offered, displayed, stored, processed, or transported in violation of the provisions of the Act or the rules thereof. Eggs upon which a Stop Sale Notice has been issued shall not be sold, transferred or otherwise disposed of until such Stop Sale Notice has been cancelled by the Director of Agriculture, or his duly authorized agent.
- b) At the retail level, all consumer-size containers within a lot determined to be in violation of the Act or the rules thereof shall be stamped individually as follows: "Not To Be Sold – Ill. Dept. of Agri." Any consumer-size containers so stamped shall not be sold at retail and shall be picked up by or returned to the person from whom they were purchased or obtained, or destroyed in the presence of the inspector.
- c) Inspection Samples. Whenever eggs are offered for sale or being held for the purpose of selling, any authorized inspector or employee of the Department of Agriculture may enter and take representative samples.
- d) Invoices, Reports and Information. When deemed necessary for proper enforcement of this Act, any producer-dealer, packer, handler, distributor, institutional consumer, retailer, or holder of an

Illinois Egg License may be required to supply invoices, reports, or equivalent information, as may be specified by the Director of Agriculture or his agent.

- e) When refusing to issue or renew, suspend or revoke a license, the Department shall conduct an administrative hearing to afford the respondent an opportunity to be heard in accordance with the provisions of Section 11.5 of the Act.

(Source: Amended at 19 Ill. Reg. 16933, effective January 1, 1996)

Section 65.190 Restricted Eggs (Definition, Labeling, Handling, Disposition)

- a) “Restricted eggs” means shell eggs that are checks, dirties, incubator rejects, inedibles, leakers or loss. Except for the producer exemption provided in subsection (c), checks and dirties may be used for human food provided they are processed and pasteurized in an official plant.
- b) “Capable of use as human food” means any egg or egg product, unless it is denatured, or otherwise identified as required by Federal regulation, to deter its use as human food (7 CFR 59 (2004)).
- c) Within the classifications of eggs defined as restricted eggs, only checks and dirties are capable of use as human food, unless they are destroyed or identified and labeled for animal food. Checks and dirties shall be sold directly or indirectly only to an official plant. However, a producer may sell on his own premises where eggs are produced checks and dirties directly to household consumers, for use by the consumer and the consumer’s non-paying guests.
- d) Producer-dealers, packers, handlers, distributors, or retailers shall not sell on or off the premises within the State any restricted eggs to any person, including consumers, institutional consumers or employees.
- e) Restricted eggs will not be given free, for use as human food, to any person, including but not limited to institutional consumers, charitable organizations, or any employee.

- f) Restricted eggs may be designated for animal food only when properly decharacterized or denatured to preclude their use in food for human consumption, and each container or receptacle shall be labeled "Restricted eggs, Not to be used as human food". However, restricted eggs that are not decharacterized or denatured may be moved from one USDA licensed plant to another USDA licensed plant.
- g) Inedible and loss eggs must be denatured at the point and time of segregation. If the liquid is removed from the shells, approved denaturant must be placed in the receptacle provided, before the liquid is added. If loss eggs are placed on fillerflats or in flats and fillers, or in any other manner, each layer of eggs must be denatured before another one is started. However, inedible and loss eggs under USDA inspection and control shall be handled in accordance with USDA recommendations.
- h) Checks and dirties must be conspicuously labeled at the point and time of segregation with a placard or other device. Full or partial master cases containing checks and dirties must be labeled before transfer to the cooler.
- i) Producer-dealers with fewer than 3000 birds, or any producers, regardless of size, who do no candling and grading, are not required to register under the Federal Egg Products Inspection Act. Producer-dealers with fewer than 3000 birds who candle and grade eggs must be licensed by the State and are subject to this Part as it applies to restricted eggs.

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.200 Denaturants

Illinois standards for use of denaturants shall be those required by the Federal Egg Products Inspection Act (21 USCA 1039) and its rules (7 CFR 59.504 (c) (2004)).

(Source: Amended at 29 Ill. Reg. 14774, effective October 1, 2005)

Section 65.210 Egg Inspection Fee

- a) An inspection fee of 11¢ per case (30 dozen equals a case) or fraction of a case shall be imposed on all eggs bearing a designated size and grade that are offered for sale or sold in the State of Illinois.
 - b) The first handler in Illinois who packed and sold the eggs shall pay the prescribed inspection fee on the eggs. In the event that the eggs are shipped into Illinois, the handler who invoiced the eggs to Illinois shall pay the fee.
 - c) The handler paying the inspection fee shall indicate on each sales invoice the amount of the inspection fee for the transaction in addition to the price of the eggs.
 - d) Eggs sold or shipped out of the State of Illinois are exempt from inspection fees.
 - e) The inspection fee shall be paid only once on the same quantity of eggs, so long as the eggs maintain their identity by remaining in their original case, carton or container. If eggs are removed from the original case, carton or container, they are now reidentified, and a second inspection fee (same rate as the first fee) shall be paid on the eggs to the Department. However, a second inspection fee shall not be paid for eggs that are consolidation.
 - f) Persons responsible for the payment of the inspection fees shall report every three months the number of master containers (cases of 30 dozen eggs per case) of eggs subject to the inspection fee on forms supplied by the Department. Exception: Persons selling less than 600 master containers of eggs per year subject to the inspection fee shall report the number of master containers sold and remit fees on an annual basis at the time of license renewal. The reports shall be accompanied by a remittance in an amount corresponding to the number of master containers at the rate prescribed per master container.
- 1) The Director shall summon the delinquent person or firm to an administrative hearing in Springfield in which the license may be suspended or revoked if:

A) the quarterly report is established as being false or incorrect; or

B) the report is not received within 30 days after the due date.

2) The quarters are as follows: January 1 to March 31; April 1 to June 30; July 1 to September 30; October 1 to December 31.

g) The inspection fee applies to all eggs identified with a consumer Grade “AA”, “A”, or “B” packed loose or packaged in cartons.

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.220 Illinois Grade Standards

The standards for shell eggs for the State of Illinois shall be those standards as set by the United States Department of Agriculture for shell eggs (see 7 CFR 56 (2004)).

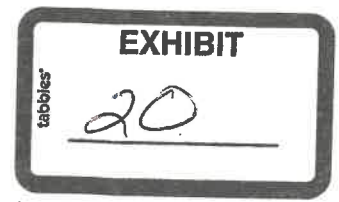
(Source: Amended at 29 Ill. Reg. 14774, effective October 1, 2005)

Section 65.230 Administrative Hearings (Repealed)

(Source: Repealed at 19 Ill. Reg. 16933, effective January 1, 1996)



Selling Eggs



Depending on the **type** of egg sales conducted, an Illinois Egg License may be required for a person or business that traffics in eggs in Illinois. Qualifying egg producers, grading stations, distributors, jobbers & brokers are required to obtain an **Illinois Egg License** as defined in the Illinois Egg & Egg Products Act.

- **Producers:**

- If you are an egg producer, you may sell nest-run eggs from your own flock to household consumers. **However**, these sales are limited to direct sales to household consumers for their own personal use, and must be sold on the premises where the flock is located. This type of shell egg sale does not require an Illinois Egg License. Producer egg sales to licensed grading stations also do not require an egg license.

- **Producers (Limited License):**

- If you are an egg producer, and you wish to sell eggs from your own flock off the premises where the flock is located, you are **required** to obtain an Illinois Egg License. A **Limited** Producer-Dealer egg license is required for producers selling graded eggs produced by their own flock of *fewer than 3000 birds*. Wholesale and retail sales of eggs must meet all requirements found in the Illinois Egg & Egg Products Act.

- **Producers (Full License):**

- If you are an egg producer, and you wish to sell eggs from your own flock of *3,000 or more* birds plus eggs from other than your own production, off the premises where your flock is located, you are **required** to obtain a Full Producer-Dealer egg license. Wholesale and retail sales of eggs must meet all requirements found in the Illinois Egg & Egg Products Act.

- **Grading Stations:**

- A **Full** license is required for a grading station. These locations candle and grade nest run eggs from various producers.

- **Additional Classifications:**

- Distributors and jobber or brokers who traffic in eggs in Illinois all require a **Full** egg license.

- **Contact Information:**

Springfield, IL 62794-9281,

Phone: [217-524-1550](tel:217-524-1550)

- [Selling Eggs Brochure](#)

Supplies Needed Before Initial Inspection:

1. Candling light.
2. A scale for weighing your eggs.
3. New cartons for selling off the farm or to retail establishments.
4. Refrigeration- 45 degrees F or less with storage and transport.
5. USDA/FDA Approved - Cleaner/Sanitizer. Wash water needs to be 90 degrees F minimum.
6. Egg producers are encouraged to check with their local health department or farmer's market manager regarding any other requirements.



City of Prospect Heights

Department of Building & Zoning

8 North Elmhurst Road, Prospect Heights Illinois, 60070-6070

Office: 847/398-6070 x 211-FAX: 847/590-1854

www.prospect-heights.il.us

MEMORANDUM

Date: September 9, 2024

To: Chairman Kempa & Planning/Zoning Board of Appeals

From: Daniel A. Peterson, Director of Building & Development

Subject: ZBA Case No. 24-12 V – Variation to Reduce Corner Side Yard Setback for the installation of a decorative metal fence at 2 Hawthorne Place

Please be advised that Teodora Varcheva, owner, of the subject property, is seeking a variation to Section 5-3-4 H1f(2) of the City of Prospect Heights Zoning Code to allow the reduction of the required corner yard setback from 20' to 0' for the construction of a 4' decorative metal fence.

The applicant is seeking to match the corner side yard fence installed by her neighbor at 112 S. Maple Lane. The issue is that the fence at 112 S. Maple Lane is a legal fence and was constructed by a permit #114-88 in 1988, prior to the adoption of the current regulations in 1991. The current fence was approved to be constructed on the property line.

Please contact me should you have any questions regarding this application.

Thank you.

PZBA Meeting

Case #24-12 V

2 Hawthorne Pl., Prospect Heights. IL

[illegible]



FOR OFFICE USE ONLY:
FEE PAID 9/24/24
DATE 8/29/24
RECV'D BY gm
CASE # 24-110
MEETING DATE 9/25/24

PLAN/ZONING BOARD OF APPEALS
APPLICATION

Special use (\$400) ✓
Variation (\$150) ✓
Text Amendment (\$300)

Map Amendment (Refer to Ord. 0-03-18)
Subdivision/PUD (Refer to Ord. 0-03-18)
Lot Consolidation (Refer to Ord. 0-03-18)
Appearance Review

In addition to the application fee a refundable deposit not <\$500 nor >\$5,000 shall be required for all zoning applications to offset the direct costs of the application incurred by the City. If costs exceed the available escrow balance applicant will be required to replenish account. If balance remains the money will be refunded or applied to any building permit cost. (Refer to Ord. O-18-06: 5-10-7(D))

APPLICANT: Teodora Varcheva
ADDRESS: 2 Hawthorne Pl
Prospect Hghts, IL 60070
PHONE: 773-780-4185
E-MAIL: tvarcheva@yahoo.com

ADDRESS OF SUBJECT PROPERTY: 2 Hawthorne Pl, Prospect Hghts
PROPERTY IS LOCATED IN THE R-1 ZONING DISTRICT.

APPLICABLE SECTION OF ORDINANCE: 5-3-4 (H) 2

DESCRIPTION OF REQUEST: 20' Relief to place fence @ P.L.

Are there any covenants, conditions, restrictions or floodplain issues concerning type of improvements, setbacks, area or height requirements, occupancy or use limitations, etc. placed on the property and now of record: YES _____ NO X
If yes, please describe: _____

Has the property been the subject of previous or pending administrative legislative or court action:
YES _____ NO X If yes, give details: _____

The follow items MUST be submitted at time of filing:

1. Application (12 copies)
2. Plat of Survey (12 copies) – must be drawn to scale and indicate the location of the proposed addition or construction and must contain the legal description of the property, along with additional information to support the application. (12 copies) *Note - please include one copy for file no longer than 11x17.
3. Proof of Ownership (1 copy)
4. Letter indicating Hardship (for variations only 12 copies)
5. Application Fee (cash or check made payable to: City of Prospect Heights)
6. Notice to Property Owners (1 copy) – will be supplied to you by the City of Prospect Heights.
7. List of Property Owners (1 copy) for Notice to Property Owners mailing - will be supplied to you by the City of Prospect Heights.

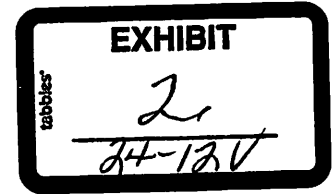
08/19/24
Date:

[Signature]
Signature of Applicant

Tepdora Varcheva

2 Hawthorne Pl, Prospect Heights, IL

August 19, 2024



City of Prospect Heights
Department of Building and Development
8 North Elmhurst Ard, Prospect Heights, IL 60070

RE: 2 Hawthorne Pl, Prospect Hghts, IL 60070

Letter of Hardship

To Whom it May Concern,

Point 1: Special conditions and circumstances exist which are peculiar to the land, structure of the building involved and which are not applicable to other lands, structures, or buildings in the same district.

My property is located adjacent to a main road, which presents unique safety and privacy concerns that other properties in the district do not face. The current building code limits fence construction to the point where the house ends, but due to the specific layout of my land and its proximity to the road, it is crucial that the fence extend to the edge of the yard to provide adequate protection and security. Additionally, the neighboring property to the left already has a non-conforming fence, highlighting the unique circumstances of properties in this area.

Point 2: Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

If the building code is applied strictly, I would be unable to extend the fence to the edge of my yard, which is necessary for ensuring the safety and privacy of my property. Our imminent neighbor residing at 112 S Maple Ln as well as the one across the street from us at 1 Hawthorne Pl are enjoy their natural boundaries and increased distance from public areas, allowing them greater privacy and security. The inability to extend the fence would deprive me of similar protections.

Point 3: The alleged hardship has not been directly created by any person presently, or a predecessor in interest, having a proprietary interest in the premises.

The hardship stems from the property's inherent layout and proximity to a main road, not from any actions taken by myself or previous owners. The building code's restriction on fence placement was not created in response to my property's specific needs, and the need for a variance arises from these pre-existing conditions.

Point 4: The proposed variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

Teodora Varcheva

2 Hawthorne Pl, Prospect Heights, IL

The extension of the fence to the edge of the yard will be done in a manner that is aesthetically pleasing and consistent with the neighborhood's character. It will not obstruct views, damage neighboring properties, or hinder public access. Instead, it will enhance the overall safety and security of the area by providing a clear boundary between the property and the main road.

Point 5: The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, or endanger public safety.

Extending the fence to the yard's edge will not block sunlight or restrict airflow to adjacent properties. The fence's design will ensure that it does not contribute to congestion, pose a fire hazard, or endanger public safety in any way. In fact, by clearly delineating the property boundary, the fence will help maintain public safety by preventing any unintended encroachments onto the main road.

Point 6: The proposed variation will not alter the essential character of the locality.

The fence extension will be constructed using materials and designs that match the existing character of the neighborhood. The extension is intended to blend seamlessly with the existing environment, preserving the neighborhood's aesthetic while addressing the specific safety and privacy needs of the property.

Point 7: The proposed variation is in harmony with the spirit and intent of this Ordinance.

The requested variance is consistent with the ordinance's goals of promoting safety, welfare, and visual harmony within the community. By allowing the fence to extend to the edge of the yard, the variance will address the unique challenges posed by the property's location, aligning with the ordinance's intent to ensure that all properties can be safely and effectively used by their owners.

Point 8: Granting the variation requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district.

The request to extend the fence is not a request for special privilege but rather a necessary adaptation to the specific conditions of the property. Other properties in the district that are not located near a main road do not require such adaptations, as they naturally enjoy greater privacy and security. The variance would simply allow my property to achieve a similar level of safety.

Point 9: No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts, shall be considered grounds for issuance of a variation.

The basis for this request is the specific need for safety and privacy due to the property's unique location, rather than the presence of non-conforming uses in neighboring properties. The extension of the fence is necessary to ensure the reasonable use of the property under the conditions it faces, independent of any non-conforming structures nearby.

Teodora Varcheva

2 Hawthorne Pl, Prospect Heights, IL

Point 10: The Plan/Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variation, and that the variation is the minimum variation that will make possible the reasonable use of land, building, or structure.

The requested extension of the fence represents the minimum adjustment needed to ensure the property's safety and privacy. Limiting the fence to where the house ends would not provide adequate protection given the property's proximity to the main road. The extension to the edge of the yard is the least intrusive means of achieving the necessary security and usability of the property.

Sincerely,

Teodora Varcheva

Ph: 773-780-4185

Email: tvarcheva@yahoo.com

-  = CHAIN LINK FENCE
-  = WOOD FENCE
-  = METAL FENCE
-  = VINYL FENCE
-  = EASEMENT LINE
-  = SETBACK LINE
-  = INTERIOR LOT LINE

AREA OF SURVEY:

"CONTAINING 20,000.0 SQ. FT. OR 0.46 ACRES MORE OR LESS"

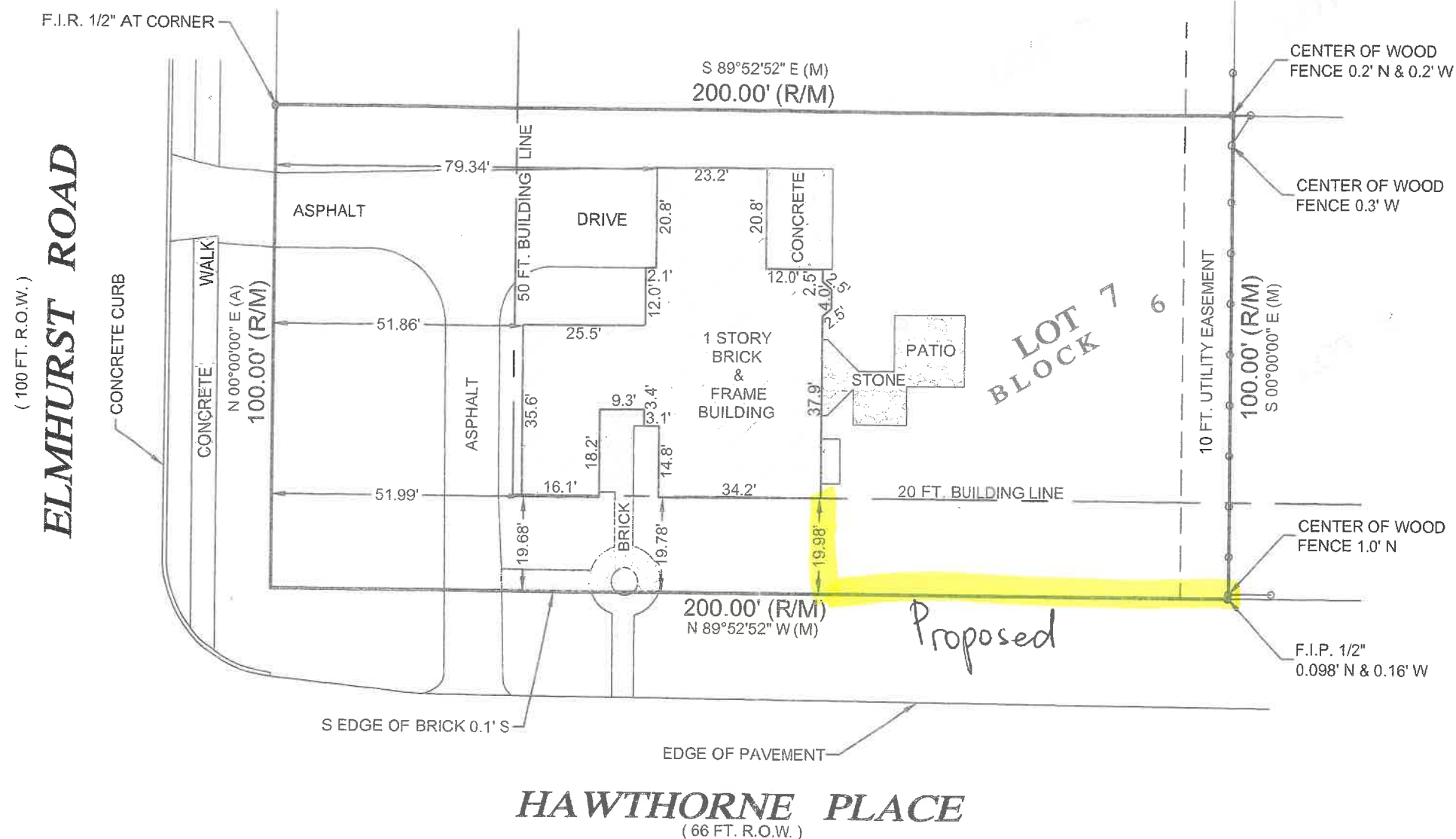


BASIS OF BEARING:
EAST LINE OF ELMHURST ROAD AS FOUND
MONUMENTED AND OCCUPIED PER RECORD
SUBDIVISION,
N 00°00'00" E (A)

EXHIBIT



24-126



STATE OF ILLINOIS } SS
COUNTY OF DUPAGE }

I, THE UNDERSIGNED, AN ILLINOIS PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT "THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY," AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF SAID SURVEY.

DATED, THIS 10TH DAY OF JULY, A.D., 2017,
AT Lisle, Illinois.

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 035-3253
 LICENSE EXPIRATION DATE NOVEMBER 30, 2018
 ILLINOIS BUSINESS REGISTRATION NO. 184-001245



NOTE:

1. ALL TIES SHOWN ON THIS SURVEY ARE MEASURED TO THE BUILDING'S SIDING (BRICK, FRAME, STUCCO, METAL, ETC.) AND NOT TO THE FOUNDATION, UNLESS NOTED OTHERWISE.
2. ROOF LINES AND OVERHANGS ARE TYPICALLY NOT SHOWN HEREON.
3. COMPARE ALL DISTANCES AND POINTS IN FIELD AND REPORT ANY DISCREPANCIES TO SURVEYOR AT ONCE.
4. NO DIMENSIONS SHALL BE ASSUMED BY SCALING.

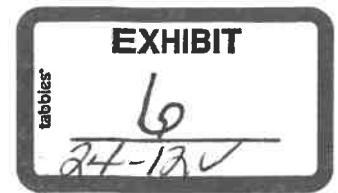
ADDRESS COMMONLY KNOWN AS 2 HAWTHORNE PLACE
PROSPECT HEIGHTS, ILLINOIS

CLIENT DROST KIVLAHAN MCMAHON & O'CONNOR, LLC

FIELDWORK DATE (CREW) 07/06/2017 (JP/TM)

DRAWN BY: JB REVISED: _____ JOB NO. 17-06-0462

Zoning Review



Date: September 9, 2024

Reviewer: Daniel A. Peterson, Director of Building & Development

Applicant: Teodora Varcheva

Subject Property: 2 Hawthorne Pl., Prospect Heights, IL

Application: Variation for Corner Side Yard Setback for Fences – Section 5-3-4 H1f(2)

Project: Construction of a 4' fence in the required yard in the R-1 District

Documents Reviewed: Completed Application. See list of exhibits in packet.

Applicable Zoning & Building Code Sections: Fences: 5-3-4 H1f(2) – Corner Side Yard
Variation Standards 5-10-8

Current Zoning: R-1 Single Family Residential District

Current Use: Single Family Residential Permitted Use

Request: Teodora Varcheva, owner of the subject property, is seeking a variation to Section 5-3-4 H1f(2) of the City of Prospect Heights Zoning Code to allow the reduction of the required corner side yard setback from 20' to 0' for the construction of a 4' high decorative metal fence.

Standards for Variations:

5-10-8: VARIATIONS:

F. Standards For Variations: The plan/zoning board of appeals shall not recommend variation of the regulations of this title unless it shall make findings of fact based upon the evidence as presented that: (Ord. 0-77-27, 7-18-1977; amd. Ord. 0-03-35, 9-15-2003)

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

Response: 1. Review owner's hardship letter and variation request supporting documents packet. Safety and security are primary hardships listed. Additionally, a stated hardship is she does not have access to the full corner

side yard as her neighbor to the east, 112 S. Maple depriving her use like her neighbor. The fence at 112 S. Maple was constructed by permit 1998 prior to the change to the city code in 1991 that placed setback requirements on fences in corner side yards.

The property located at 1 E. Hawthorne Pl. and 200 S. Maple both constructed fences after 1991 with approved by permits.

*** 1 E. Hawthorne Place – Permit #206-93 and #01-242 files destroyed in City Hall Fire in 2006. The corner side yard fence appears to be greater than 20' from the property line and would be conforming.**

*** 200 S. Maple – Permit #00-70 and #03-360 both for rear yard 6' fence. The City has no record of a fence permit being issued for a fence in the corner side yard. However, the fence appears to be in line with the side yard building line and conforming.**

2. Literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title.

Response: 1. Review the hardship letter.

3. The alleged hardship has not been directly created by any person presently, or a predecessor in interest, having a proprietary interest in the premises.

Response: 1. Review hardship letter.

4. The proposed variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

Response: Standard met. The variation will not have a negative impact to the neighborhood.

5. The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, or endanger the public safety.

Response: Standard met.

6. The proposed variation will not alter the essential character of the locality.

Response: The overall project will not alter the essential character of the locality. Neighboring compliant fences in the area are placed at the property line.

7. The proposed variation is in harmony with the spirit and intent of this title.

Response: Standard met.

8. Granting the variation requested will not confer the applicant any special privilege that is denied by this title to owners of other lands, structures, or buildings in the same district.

Response: It appears that the neighbors on the south side of the street are in compliance with the current zoning ordinance.

9. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variation. (Ord. 0-77-27, 7-18-1977)

Response: The abutting property fence is compliant and should not be grounds for issuance of the variation.

10. The plan/zoning board of appeals shall further make a finding that the reasons set forth in the application justify the granting of the variation, and that the variation is the minimum variation that will make possible the reasonable use of the land, building, or structure. (Ord. 0-77-27, 7-18-1977; amd. Ord. 0-03-35, 9-15-2003)

Response: No additional conditions are necessary.

The board may impose such conditions and restrictions upon the location, construction, design and use of property benefited by a variation as may be necessary or appropriate to comply with the foregoing standards and to protect adjacent property and property values.

Conclusion

The applicant can meet the literal intent of the ordinance and place the fence at the 20' setback line. The question is does the other hardship meets the requirement for a variation.



ORDINANCE NO. 0-91-22

AN ORDINANCE AMENDING SECTION 4.04(H)(1)(F) OF THE
CITY OF PROSPECT HEIGHTS ZONING ORDINANCE PERTAINING TO FENCES

WHEREAS, a petition for an amendment to Section 4.04(H)(1)(f) to the Zoning Ordinance of the City of Prospect Heights pertaining to residential fences has been filed by the City of Prospect Heights; and

WHEREAS, the question of granting the amendment described in Section 2 hereof was referred to the Plan Commission/Zoning Board of Appeals of the City of Prospect Heights; and

WHEREAS, the Plan Commission/Zoning Board of Appeals has held a public hearing on said question pursuant to due and proper notice, all as required by law;

NOW, THEREFORE, Be It Ordained by the City Council of the City of Prospect Heights, Cook County, Illinois as follows:

Section 1. The City Council of the City of Prospect Heights hereby finds and determines that the facts stated in the preamble to this Ordinance are true and correct and are hereby adopts the same as part of this Ordinance.

Section 2. Section 4.04(H)(1)(f) of the Zoning Ordinance of the City of Prospect Heights is hereby amended to read as follows:

Constructed fences may be located anywhere on residential property, subject to the following exceptions: (1) that they shall not be located in front of the front building line, or in front of such line as it extends in either direction to the side lot lines, or (2) that they shall not be located beyond the corner side yard building line, or beyond such line as it extends in either direction to the front and rear lot lines. On reverse corner lots, said fence shall not extend beyond the required front setback line of the first lot to the rear of said reverse lot for a distance equal to the rear yard of the reverse corner lot. The restrictions set forth in subsections (1) and (2) hereof shall not apply to any fence which is at least 80% open and not of metal construction.

Section 3. This Ordinance shall be in full force and effect from and after its passage and approval and publication in pamphlet form as required by law.

PASSED this 17th day of June, 1991

APPROVED this 18th day of June, 1991


MAYOR

ATTEST:


CITY CLERK

AYES: Jendreas, Lutzow, Merle, Morris, Richartz, Shipanik,
Shirley and Sunde

NAYS: none

ABSENT: none

PUBLISHED IN PAMPHLET FORM: June 20, 1991



0-77-27

THE ZONING ORDINANCE
OF THE
CITY OF PROSPECT HEIGHTS
Cook County, Illinois
1977

Mayor: Richard E. Wolf

Aldermen: Edward Bryant
Christina Carlson
John Fedyski
Frederick Gilman
William Masloske
Thomas Merle
Shirley Moore
Fredric Olds

City Clerk: Nancy Lambert

City Treasurer: Harriett Nilsson

Zoning Commission: Kenneth Black
Fred Darmstadt
John Gilligan
Fred Kelly
George Slawik

Consulting Planner: Allen Kracower and Associates

City Attorney: Donald Kreger

Published in pamphlet form by
authority of the City Council.

July 27, 1977

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| 24. Tennis courts, private. | R |
| 25. Terraces, patios, and outdoor fireplaces. | R |
| 26. Trees, shrubs and flowers, including fruit trees, berry bushes and landscaping. | F S R C |
| 27. Water retention and detention areas. | S R |
| 28. Wireless towers, including antenna element and support structures, but not to exceed seventy-five(75) feet above grade. | R |

H. Fences. Fences are permitted accessory uses in all districts. In no district shall a hedge, shrubbery or constructed fence or wall be erected or grown to a height exceeding three(3) feet above the street grade nearest thereto, within thirty-five(35) feet of the intersection of any street lines. The following regulations shall govern the type, location and construction of all fences.

or.

1. Residential Districts. Fences may be erected in all residential districts subject to the following:
 - a. A constructed fence or wall may be erected, placed, or maintained anywhere on residential zoned property to a height not exceeding six(6) feet above the ground level; except that when such residential zoned property abuts property zoned for non-residential use or a parking area such a fence or wall, constructed within ten(10) feet of the abutting lot line, may be erected, placed or maintained to a height of eight(8) feet.
 - b. A hedge or shrubbery fence may be grown and maintained to its natural height.
 - c. No hedge or shrubbery or constructed fence which is located in a required front or corner side yard shall exceed a height of three(3) feet within fifteen(15) feet of the intersection of a driveway and a street or sidewalk.
 - d. A fence which is constructed to screen a patio, swimming pool or dog run, shall be permitted to a height of eight(8) feet.
 - e. In multi-family residence districts, a six(6) foot high solid fence shall be erected to enclose and screen all refuse collection areas or facilities.
2. Business Districts. Fences erected in all business districts shall be subject to the following:
 - a. When a business use adjoins a residential district, a solid fence to a height of eight(8) feet above existing grade shall be erected along any lot line that adjoins the residential district.
 - b. A six(6) foot high solid fence shall be erected to enclose and screen all refuse collection areas or facilities.
 - c. An open fence may be erected in the interior side yard or rear yard of any business district to a height of six(6) feet above existing grade.



Prospect Heights GIS Web Application

Developed by Gewalt Hamilton Associates, Inc., S Maple Ln, Prospect Heights, IL, 60071 X

