

ORDINANCE NO. 2017

An ORDINANCE to amend Title 6 of the Davenport Municipal Code by adding Chapter 6.06, entitled, "Urban Chickens" and amending Section 6.04.055, entitled, "Livestock and poultry prohibited" and amending Section 8.12.150, entitled, "Keeping of Animals and Fowl Restricted". (City of Davenport, petitioner; Case No. 16-04)

NOW, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAVENPORT, IOWA:

Section 1. That Chapter 6.06 of the Davenport Municipal Code be added to read as follows:

CHAPTER 6.06: URBAN CHICKENS

Section 6.06.010. Definitions:

Chicken: A member of the subspecies *Gallus gallus domesticus*, a domesticated fowl.

Chicken Tractor: A lightweight portable chicken coop without a solid floor that allows the chickens to forage for weeds and insects.

Henhouse: A hen house or chicken coop is a structure where female chickens are kept.

Permitting Officer: The City Administrator or designee.

Permittee: An applicant who has been granted a permit to raise, harbor, or keep chickens pursuant to this Chapter. If the applicant does not own the property where the chickens are to be kept, the owner of the property must be the joint permittee.

Urban Chicken: A chicken kept on a permitted tract of land pursuant to a permit issued under this Chapter.

Section 6.06.020. Administration:

Section 6.06.021 Permit Required.

No person shall raise, harbor or keep chickens within the City of Davenport without a valid permit obtained from the Permitting Officer under the provisions of this Division.

Section 6.06.022 Application.

In order to obtain a permit, an applicant shall submit a completed application on forms provided by the Permitting Officer, either on-line or in paper form, and pay all fees required by this Chapter.

Section 6.06.023 Requirements.

The requirements to receive of a permit include:

- (A) All requirements of this Division are met.
- (B) All fees, as may be provided for from time to time by city council resolution, for the permit are paid in full.
- (C) All amounts owed to the City, including but not limited to liens, fines and judgments must be paid in full.
- (D) The tract of land to be permitted shall contain only one single family dwelling occupied and used as such by the permittee. Owner permission shall be required if the single family dwelling is occupied by someone other than the owner.
- (E) The applicant has successfully completed an approved class in raising chickens in an urban setting. A certificate, or other documentation, of completion shall be provided to the Permitting Officer. The Permitting Officer shall maintain a current list of such approved classes.

Section 6.06.024. Issuance of Permit.

If the Permitting Officer concludes as a result of the information contained in the application that the requirements for a permit have been met, then the Officer shall issue the permit.

Section 6.06.025. Denial, suspension, revocation, non-renewal.

The Permitting Officer may deny, suspend, revoke, or decline to renew any permit issued for any of the following grounds:

- (A) False statements on any application or other information or report required by this section to be given by the applicant;
- (B) Failure to pay any application, penalty, reinspection or reinstatement fee required by this section or city council resolution;
- (C) Failure to correct deficiencies noted in notices of violation in the time specified in the notice;
- (D) Failure to comply with the provisions of an approved mitigation/remediation plan by the Permitting Officer, or designee.
- (E) Failure to comply with any provision of this Division.
- (F) Notification. A decision to revoke, suspend, deny, or not renew a permit shall be in writing, delivered by ordinary mail or in person to the address indicated on the application. The notification shall specify reasons for the action.

(G) Effect of Denial or Revocation. When an application for a permit is denied, or when a permit is revoked, the applicant may not re-apply for a new permit for a period of one (1) year from the date of the denial or revocation.

(H) Appeals. No permit may be denied, suspended, revoked, or not renewed without notice and an opportunity to be heard is given the applicant or holder of the permit. Said hearings shall be conducted in accordance with Chapter 2.86 of the Davenport Municipal Code. In any instance where the Permitting Officer has denied, revoked, suspended, or not renewed a permit, the applicant or holder of urban chicken may appeal the decision to the city council within ten (10) business days of receipt by the applicant or holder of the permit of the notice of the decision. The applicant or holder of the permit will be given an opportunity for a hearing. The decision of the Permitting Officer which is not appealed in accordance to this Division shall be deemed final action.

Section 6.06.030. Number and Type of Chickens Allowed:

Only a maximum of six (6) female chickens (hens) are allowed for each tract of land.

Section 6.06.040. Zoning Districts Allowed:

Permits may be granted for tracts of land with single family residential being the principal use located in the following residential districts: R-1, R-2, R-3, R-4, R-5, R-5M, R-6M, TND, or any residential zoning district which has a PUD overlay. In addition, permits may be granted for tracts of land with single family residential being the principal use located in the following commercial or industrial districts: O-T, C-O, C-1, C-2, M-1, M-2.

Section 6.06.050. Non-Commercial Use Only:

Chicken breeding or fertilizer production for commercial purposes is prohibited.

Section 6.06.060. Enclosures:

(A) Chickens shall be kept in an enclosure or fenced area at all times. Chickens shall be secured within a henhouse or chicken tractor during non-daylight hours. Chickens shall not be allowed in the front yard at any time.

(B) Enclosures shall be kept in a clean, dry, odor-free, neat and sanitary condition at all times.

(C) Henhouses shall provide adequate ventilation and adequate sun and shade and shall be impermeable to rodents, wild birds and predators, including dogs and cats.

(D) Henhouses and chicken tractors.

(1) Henhouses shall be designed to provide safe and healthy living conditions for the chickens with a minimum area of four (4) square feet per bird while minimizing adverse impacts to other residents in the neighborhood.

(2) A henhouse shall be enclosed on all sides and shall have a roof and doors. Access doors shall be able to be shut and locked at night. Opening windows and vents shall be covered with predator and bird proof wire of one (1) inch or smaller openings.

(3) The materials used in making a henhouse shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. Construction of henhouses and chicken tractors shall be done in a good workmanlike manner. The use of scrap, waste board, sheet metal, or similar materials is prohibited. Henhouses and chicken tractors shall be well maintained.

(4) Henhouses shall only be located in the rear yard unless the setback requirements cannot be met in which case they may be kept in a side yard but within the required setbacks.

(5) Henhouses and chicken tractors shall be located at least ten (10) feet from the property line and at least twenty-five (25) feet from any principal structure, and shall meet all other accessory structure provisions of the Zoning Ordinance.

Section 6.06.070. Odor and Noise Impacts:

Odors and/or noise from chickens, chicken manure or other chicken related substances shall not be perceptible to persons of reasonable sensitivity beyond the boundaries of the permitted tract of land.

Section 6.06.080. Predators, Rodents, Insects, and Parasites:

The Permittee shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation may be removed by an authorized authority.

Section 6.06.090. Feed and Water:

Chickens shall be provided with access to feed and clean water at all times. The feed and water shall be unavailable to rodents, wild birds and predators.

Section 6.06.100. Waste Storage and Removal:

All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored on the permitted tract of land. All other manure not used for composting or fertilizing shall be removed. The henhouse, chicken tractor, and surrounding area shall be kept free from trash and accumulated droppings.

Uneaten feed shall be removed in a timely manner.

Section 6.06.110. Chickens at Large:

The Permittee shall not allow his or her chickens to roam off the permitted tract of land. No dog or cat or other domesticated animal which kills a chicken off the permitted tract of land will, for that reason alone, be considered a dangerous or aggressive animal or the city's responsibility to enforce its animal control provisions.

Section 6.06.120. Unlawful Acts:

(A) It shall be unlawful for any person to keep chickens in violation of any provision of this Division or any other provision of the City Code.

(B) It shall be unlawful for any owner, renter or leaseholder of property to allow chickens to be kept on the property in violation of the provisions of this Division.

(C) No person shall keep chickens inside a dwelling unit or any other structure than an approved henhouse or chicken tractor.

(D) No person shall slaughter any chickens within the City of Davenport outside of legally operating poultry production facilities.

(E) No person shall keep a rooster.

(F) No person shall keep chickens on a vacant or uninhabited tract of land.

(G) It shall be lawful to dispose of any chicken carcass other than in accordance of Chapter 8.08.09 of the Davenport Municipal Code.

Section 6.06.130. Use of Outside Resources.

The City may utilize outside resources and volunteers in efforts to educate and train potential permit holders on the proper keeping of urban chickens in the City of Davenport.

Section 6.06.140. Nuisances:

Any violation of the terms of this Division that constitutes a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under the general nuisance abatement provisions of Title 8.12 of the Davenport Municipal Code (Nuisances).

Section 2. That Chapter 6.04.055 of the Davenport Municipal Code be amended to read as follows:

6.04.055 Livestock and poultry prohibited.

A. Notwithstanding the provisions of Chapter 5.24 of the Davenport Municipal Code, it shall be unlawful to maintain, keep or harbor any cattle, swine (except Vietnamese or Asian pot-bellied pigs), sheep, llamas, horses, jacks, goats, guinea fowl, ostriches, poultry (domestic chickens, turkeys, geese, and ducks), or similar domestic animals raised for home use or for profit within the city limits unless the property upon which such animals are maintained, kept or harbored is zoned as agricultural property. This section shall not apply to a bona fide zoological garden, pet shop, educational institute, circus, carnival, or veterinary hospital treating such animals.

Section 3. That Chapter 8.12.150 of the Davenport Municipal Code be amended to read as follows:

8.12.150 Keeping of Animals and Fowl Restricted.

A. Notwithstanding the provisions of Chapter 5.24 of the Davenport Municipal Code, no person shall collect or keep any horses, mules, cattle, swine, sheep, goats, rabbits or any other animals in any pen, yard or enclosure or place within the built-up portion of the city, or elsewhere so as to create a nuisance.

B. Notwithstanding the provisions of Chapter 5.24 of the Davenport Municipal Code, no person shall collect or keep any chickens, ducks, geese or any other fowls within the built-up portion of the city; nor shall the same be kept by any person elsewhere in the city unless the same are kept in a proper pen or enclosure. Such pen or enclosure shall at all times be kept clean and free from noisome or offensive odors and such fowls shall be kept in such a manner so as not to create a nuisance of any kind.

SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

EFFECTIVE DATE. This ordinance shall be in full force and effective upon final passage and publication as by law provided.

First Consideration _____

Second Consideration _____

Approved _____

Frank Klipsch, Mayor

Attest: _____

Jackie Holecek, MMC
Deputy City Clerk

Published in the *Quad City Times* on _____