

ORDINANCE NO. 2139

AN ORDINANCE REGULATING THE KEEPING OF DOMESTIC FOWL WITHIN THE CORPORATE LIMITS OF THE CITY OF EUREKA SPRINGS, ARKANSAS, AND AMENDING CHAPTERS OF TITLE 6 IN THE MUNICIPAL CODE OF THE CITY OF EUREKA SPRINGS, ARKANSAS, REGARDING KEEPING OF DOMESTIC FOWL

WHEREAS, it is the intention of the Eureka Springs, Arkansas City Council to provide for and protect the health, safety and welfare of the citizens of Eureka Springs; to promote residential harmony and to ensure the well-being of properly maintained domestic fowl through effective regulation; and

WHEREAS, the Eureka Springs City Council acknowledges that having domestic fowl within an urban environment has the potential to affect the interests of others; and

WHEREAS, certain minimum standards for keeping domestic fowl are necessary to protect the health, welfare and quality of life of both the animals and citizens of Eureka Springs; and

WHEREAS, it is the intent of the Eureka Springs City Council to provide and maintain, for the citizens of Eureka Springs, opportunities for healthy consumption of locally produced foods and products; and

WHEREAS, the Eureka Springs City Council acknowledges that the act of food production on one's own property may improve the quality of life of its residents; and

WHEREAS, the Eureka Spring City Council acknowledges that the keeping of domestic fowl in the City supports a local, sustainable food system by providing an affordable, nutritious source of nourishment.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Eureka Springs that Chapter 6.05 DOMESTIC FOWL and 6.06 DOMESTIC FOWL STANDARDS OF ENCLOSURES be added as follows:

Section 1. Chapter 6.05 DOMESTIC FOWL

Sections:

- | | |
|---------|---------------------------|
| 6.05.01 | Lawful domestic fowl |
| 6.05.02 | Number of domestic fowl |
| 6.05.03 | Re-claiming domestic fowl |
| 6.05.04 | Disposal of domestic fowl |

6.05.01 Lawful domestic fowl Subject to the standards of this chapter it shall be lawful to keep domestic fowl within the City limits of Eureka Springs. Any other fowl not listed as lawful shall be considered as unlawful to keep within the city limits of Eureka Springs.

6.05.02 Number of domestic fowl It shall be unlawful to keep, harbor, possess and/or have custody of any male birds or more than ten (10) domestic chickens/chicks; twenty-five (25) pigeons or quail. The maximum number of total domestic fowl shall not exceed twenty-five (25) of all species combined. This section shall not apply to the keeping of small caged birds solely as pets.

6.05.03 Reclaiming domestic fowl The owner of any domestic fowl impounded may redeem them by paying all the costs, charges and penalties assessed, if any, that have accrued up to the time of making the redemption; and when they are paid, the domestic fowl shall be released to the owner. (MC 1978, 6.08.10)

6.05.04 Disposal of domestic fowl

- A. Immediately after impounding any domestic fowl, it shall be the duty of the Animal Control Officer or designee to enter, in a book to be kept by the Animal Control Officer, the date of impounding and a description of the domestic fowl impounded.
- B. Public notice of the impounding of such domestic fowl shall be given by posting a description of such domestic fowl and date of impounding on the bulletin board in the City Hall at 44 S. Main St. Any such domestic fowl not redeemed by the owner within five (5) days after the posting of such notice shall be declared to be a public nuisance and may be disposed of in a humane and appropriate manner.

Section 2. CHAPTER 6.06 DOMESTIC FOWL STANDARDS OF ENCLOSURES

Sections:

- 6.06.01 Definitions
- 6.06.02 Location and number
- 6.06.03 Disinfected
- 6.06.04 Enclosure specifics and animal welfare
- 6.06.05 Permits Required
- 6.06.06 Inspection
- 6.06.07 Enforcement
- 6.06.08 Penalty

6.06.01 Definitions The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- Disinfectant means a product recognized and marketed as a germicidal disinfectant compound.
- Domestic Improvement means a dwelling, patio, gazebo, deck, hot tub, pool, or sauna.
- Enclosure means any enclosed area, including buildings, fenced-in areas, pens, cages and pastures.
- Domestic Fowl means adult chicken hens, pigeons or quail.
- Hen means an adult female fowl.
- Chick means a fowl of unknown sex up to the age of three (3) months.

6.06.02 Location and Number

- 1. Domestic fowl may be kept in the following locations; subject to all other standards in this Chapter:
 - a. on a single household parcel(s)
 - b. on a parcel(s) under unitary ownership with more than one dwelling on site
 - c. on residential parcels under common ownership
- 2. The number of domestic fowl authorized per permit shall comply with the following, subject to all other standards in this Chapter:

a. for the first one thousand six hundred (1,600) square feet of any residential parcel, up to four (4) chickens or 20 pigeons or quail;

b. for each additional one thousand (1,000) square feet of an residential parcel two (2) additional hens or two (2) pigeons or two (2) quail, as long as a maximum of ten (10) hens or twenty-five (25) pigeons or quail is not exceeded. The number of allowed domestic fowl is exclusive to each permit and may not overlap. This may restrict the number of permits issued on a given parcel.

6.06.03 Disinfected Every enclosure wherein fowl are kept in the city shall be kept clean , sanitary, and regularly disinfected.

6.06.04 Enclosures and animal welfare

1. No domestic fowl shall be allowed to run at large (free range) within the corporate limits of the City of Eureka Springs. All domestic fowl must be contained within the enclosed area on the permitted property at all times.

2. The permittee shall provide the domestic fowl with a covered, predator-proof, adequately ventilated coop of sufficient size to allow free movement of the domestic fowl . The coop must be adjacent to and provide free access to the domestic fowl enclosure. Any heat source or electrical facilities installed in a domestic fowl coop must comply with all adopted building and electrical codes of the City of the Eureka Springs and the Eureka Springs Historic District Guidelines where applicable.

3. Standards for the size and location of domestic fowl enclosures:

a. Coops shall be located within the normal setback requirements of the permitted property, except when written permission is obtained from an owner of vacant adjacent land to encroach on the side or rear boundary of permitted property. If such vacant land becomes inhabited or designated for any other domestic use, all standard setback provisions of this section shall be immediately in force, and enclosures must be brought into compliance.

b. Coops can be located in any portion of the permitted rear yard, but may not be located in the front yard, except under specific conditions such as the prime structure being located at the extreme rear of parcel. In such cases, any part of the domestic fowl enclosure must be located no less than three (3) times the distance of the property front setback requirements. All other requirements of this ordinance shall remain intact.

c. Enclosures for domestic fowl may be movable, but must comply with all standards of this section.

4. Domestic fowl enclosures shall be kept in good repair, maintained in a sanitary condition, free of vermin, obnoxious smells, and waste substances. Enclosures shall be constructed and maintained to prevent rodents from being harbored underneath, within or within the walls of the enclosures and to prevent entrance by any other bird or animal.

5. Food and fresh water containers shall be kept in the coop with adequate access.

6. Leftover feed, trash and manure shall be removed weekly. Stored feed must be kept in a rodent- and predator-proof container.

7. Domestic fowl shall be maintained in a healthy condition. Ill domestic fowl shall either receive appropriate medical care or be disposed of in a humane, legal manner.

6.06.05 Permits Required Prior to the keeping of any domestic fowl an owner, operator or custodian wanting to keep domestic fowl shall obtain a permit from the City Clerk for the City of Eureka Springs. A permit fee of ten dollars (\$10) will be due with the permit application. The permit

fee may be revised from time to time by the City Council. Only one (1) permit for domestic fowl shall be issued per owner, operator or custodian of a parcel of land.

1. The owner, operator or custodian of the domestic fowl shall keep a copy of all signed approval documents for inspection upon request from an Animal Control Officer or designee.
2. A permit for domestic fowl under this section does not relieve any party from any requirement to obtain any other permit or other necessary approvals for any structure, fence, lighting, heat source, etc., as required by the Eureka Springs Municipal Code.
3. The application shall contain the following:
 - a. Identify on a sketch, the property boundaries, the location of all structures on the property and distances between said structures and between the property boundaries. The sketch must also indicate the location(s) of the domestic fowl coop.
 - b. The number of domestic fowl to be kept.
 - c. A description of the enclosure or roofed coop, including materials used and square footage(s).
 - d. A statement that all information contained in the application is true and that the permit holder shall keep the domestic fowl in compliance with the terms of the permit, application and Ordinance #2139
4. Applicant requirements and responsibility:
 - a. A permit to keep domestic fowl is specific to the permit holder and the location of the permit. A person wishing to move domestic fowl to a different property shall obtain a new permit.
 - b. A new resident of a property who intends to keep domestic fowl shall obtain a new permit regardless of whether domestic fowl were kept on the property or continue to be kept on the property.
 - c. Approval of a permit to keep domestic fowl authorizes the permit holder to keep the number of domestic fowl in the manner described on the application and permit. Any increase to the number of domestic fowl allowed or a significant change to the manner of keeping, shall require a new permit.
 - d. Where the person seeking to keep domestic fowl is not the fee owner of the property upon which the domestic fowl will be kept, the applicant shall obtain the property owner's consent in writing to keep domestic fowl on the property. The owner's consent shall be submitted with the permit application. For the purposes of this section, when a party seeks to keep domestic fowl on a property owned as a condominium, the consent of the property owners' association must be obtained. An officer of the association may sign as the land owner.

6.06.06 Inspection The Animal Control Officer or designee is authorized to enter upon any premises, public or private, for the purpose of making inspections to determine if the provisions of this article are being violated.

6.06.07 Enforcement If, upon inspection, the Animal Control Officer or designee finds that the provisions of this article have not been or are not being complied with, he shall;

- a. give written notice of the non-compliance to the owner, possessor or custodian of such domestic fowl; and such owner, possessor or custodian shall, within thirty (30) days after the receipt of such notice, proceed to fully comply with the provisions of this article.
- b. If the non-compliance as notified is not corrected within the thirty (30) day allowance, a second notice to comply within fifteen (15) days shall be issued and a re-inspection fee of twenty five dollars (\$25.00) shall be charged.

- c. If the second notice is not complied with, and/or the re-inspection fee is not paid within the fifteen (15) days allowed, a Notice of Permit Revocation shall be issued and the removal of all the domestic fowl shall be undertaken by the designated Officer or their assignee. Failure to comply with the fifteen (15) day notice of non-compliance shall be considered a violation of this ordinance.
- d. Any expense incurred by the city for the removal of the domestic fowl under this provision may be levied against the permit holder or the said property owner.
- e. The issuance of three (3) or more notices of non-compliance pertaining to this ordinance within any twelve (12) month period to any owner, possessor or custodian of domestic fowl shall be grounds for revocation of a permit to keep domestic fowl and the owner, possessor or custodian of such domestic fowl shall be in violation of this ordinance. Each additional notice, after the third notice within twelve (12) months shall be a separate violation.
- f. A new permit shall not be issued to any person who has had a permit revoked until the passage of one (1) year after such revocation and all fees for previous violations have been satisfied.
- g. Interference with the Animal Control Officer and/or his designee in the performance of his duties with regard to this ordinance, shall be a violation.

6.06.08 Penalty Any person convicted for a violation of this ordinance shall be adjudged to pay a fine of not more than One Hundred Dollars (\$100.00) plus appropriate court costs for each violation.

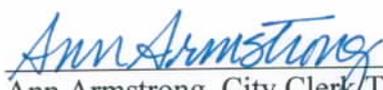
Section 3. All provisions of the ordinances of the City of Eureka Springs in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other provisions of the ordinances of the City of Eureka Springs not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4. Severability. Should any sentence, paragraph, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, shall not affect the validity of the Eureka Springs Municipal Code as a whole.

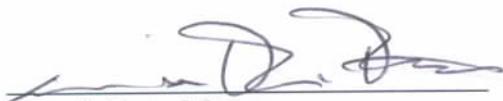
Section 5. This ordinance shall be in full force and effect thirty (30) days after final adoption.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, ON THIS 4th DAY OF August, 2011

ATTEST:


 Ann Armstrong, City Clerk/Treasurer

APPROVED:


 Morris Pate, Mayor

Alderman voting "Aye"- Robert "Butch" Berry, Dean Kirkpatrick, Parker Raphael, Ken Pownall, James DeVito. Alderman voting "No"- Lany Ballance