

MARCH 22, 2011
MARCH 8, 2011

11-109

11-139

ORDINANCE

(CARRIED 5-2 LOST _____ LAID OVER _____ WITHDRAWN _____)
AS AMENDED

PURPOSE: APPROVE AMENDMENT TO CHAPTER 6 - ANIMALS, TO ALLOW URBAN CHICKENS IN R-1 (SINGLE FAMILY RESIDENCE) DISTRICT OR R-2 (TWO FAMILY RESIDENCE) DISTRICT

INITIATED BY: COMMON COUNCIL

BOARD OF HEALTH RECOMMENDATION: APPROVED

SUSTAINABILITY ADVISORY BOARD RECOMMENDATION: APPROVED

A GENERAL ORDINANCE OF THE CITY OF OSHKOSH PERTAINING TO ALLOWING CHICKENS IN THE CITY OF OSHKOSH AS PART OF CHAPTER 6 OF THE OSHKOSH MUNICIPAL CODE BY AMENDING SECTION 6-1 (2) DEFINITIONS; ARTICLE II. IS RETITLED LICENSING OF ANIMALS; SECTION 6-2 STATE STATUTES ADOPTED IS REPEALED AND RECREATED; SECTION 6-3 LICENSE REQUIRED AMENDED TO ADD (D); SECTION 6-4 LICENSE FEES REPEALED AND RECREATED; SECTION 6-5 STATE STATUTES ADOPTED IS AMENDED TO ADD WIS. STAT. 95.51; SECTION 6-6(A)(1) ANIMALS, FOWL, AND INSECTS NOT PERMITTED IN CITY REPEALED AND RECREATED; SECTION 6-7 (C), (J) AND (K) CRUELTY TO ANIMALS REPEALED AND RECREATED; SECTION 6-8 RETITLED LIMIT NUMBER OF ANIMALS AND 6-8 (C) RECREATED AND FORMER (C) BECOMES (D); SECTION 6-12 RETITLED ANIMAL NOISE.

The Common Council of the City of Oshkosh does ordain as follows:

SECTION 1. That Chapter 6, Animals, Section 6-1 of the Oshkosh Municipal Code pertaining to Definitions is hereby amended to add the following (2) and renumbered thereafter:

(2) Chicken shall mean hens or pullets.

SECTION 2. That Chapter 6, Animals, the title of Article II of the Oshkosh Municipal Code pertaining to Licensing of Dogs and Cats is hereby repealed and recreated to read as follows:

Article II. LICENSING OF ANIMALS

SECTION 3. That Chapter 6, Animals, Section 6-2 of the Oshkosh Municipal Code pertaining to State Statutes Adopted is hereby repealed and recreated to read as follows:

SECTION 6-2 STATE STATUTES ADOPTED

The rules and regulations pertaining to licensing, specifically Sections 174.001, 174.05, 174.053, 174.054, 174.055, 174.07 and 95.51 Wisconsin Statutes and Chapter ATCP 17, Wisconsin Administrative Code, together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Code shall apply. The rules and regulations pertaining to licensing shall apply also to cats and chickens within the city of Oshkosh.

SECTION 4. That Chapter 6, Animals, Section 6-3 License Required of the Oshkosh Municipal Code pertaining to License; Required is hereby amended to add (D) to read as follows:

- (D) No person shall keep or maintain any chicken within the city limits prior to obtaining an annual license from the City and registration with the State. The City license year shall commence on January 1 of each year and licenses shall expire on December 31 of that year. The license and any associated fee is to keep chickens and not per chicken. Prior to licensing by the City, the owner must provide proof of State Livestock Registration.

SECTION 5. That Chapter 6, Animals, Section 6-4 of the Oshkosh Municipal Code pertaining to License; Fees is hereby repealed and recreated to read as follows:

SECTION 6-4 LICENSE; FEES

Every owner of a dog or cat shall pay the City Treasurer prior to January 1 of each year, the sum of Five Dollars (\$5.00) for each dog or cat, except that the fee shall be Twelve Dollars (\$12.00) for each unneutered male dog or cat or unspayed female dog or cat.

Every owner of a chicken shall pay the City Treasurer prior to January 1 of each year, the sum of Ten dollars (\$10.00) for a chicken license.

In the event such license fee is not paid prior to April 1 or within 30 days of acquiring ownership of a licensable dog or cat or chicken, or if the owner failed to obtain a license on or before the date the dog or cat reached licensable age, an additional fee of Seven Dollars (\$7.00) shall be assessed and collected.

SECTION 6. That Chapter 6, Animals, Section 6-5 - State Statutes Adopted , of the Oshkosh Municipal Code pertaining to State Statutes Adopted, is amended to add Wis. Stat. 95.51 Livestock Premises Registration and the last paragraph is hereby amended to read as follows:

The rules and regulations pertaining to licensing, impoundment, running at large and untagged, and rabies control shall apply also to cats and chickens within the city of Oshkosh.

SECTION 7. That Chapter 6, Animals, Section 6-6 of the Oshkosh Municipal Code pertaining to Animals, Fowl, and Insects Not Permitted in City, Section 6-6 (A)(1) is hereby repealed and recreated to read as follows:

- (1) Any fowl or poultry (exception for chickens in R-1 or R-2), cattle, horses, sheep, swine, goats, pot-bellied pigs, or any other domesticated livestock, unless part of an agricultural operation authorized by the City of Oshkosh Zoning Ordinance Chapter 30 of the Municipal Code.

SECTION 8. That Chapter 6, Animals, Section 6-7 of the Oshkosh Municipal Code pertaining to Cruelty to Animals, Section (C) is hereby repealed and recreated to read as follows:

(C) Every owner and/or person in charge or control of any animal which is kept outdoors, or in an unheated enclosure, shall provide such animal with shelter and bedding as prescribed in this Section as a minimum.

- (1) The housing facilities shall be structurally sound, moisture proof and maintained in good repair.
- (2) Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement and the retention of body heat.
- (3) A solid floor raised at least 2" off the ground (exception for chickens).
- (4) An entrance covered by a self-closing swinging covering, or an L-shaped entrance to prevent the wind from blowing directly into the house (exception for chickens).
- (5) A sufficient quantity of suitable clean bedding material, to provide insulation and protection against the cold and dampness and promote the retention of body heat .
- (6) During the months of May through September, inclusive, paragraphs 4 and 5 above may be suspended (exception for chickens).
- (7) Chickens shall be provided enclosures that are enclosed, predator-proof, insulated and adequately ventilated.
- (8) Chicken enclosures shall measure a minimum of seven (7) square feet in area or three (3) square feet in area per chicken, whichever is greater **with one nest box provided per every two (2) chickens.**
- (9) Chicken enclosures must be so constructed and maintained as to prevent rodents from being harbored underneath or within the walls thereof.
- (10) Chicken enclosures shall provide elevated perches to ensure chickens are able to rest in their natural roosting position.
- (11) No chicken enclosure, food storage unit, or waste compost shall be located closer than 25 feet to any primary residential structure on an adjacent lot **and must be located in the rear yard of the property, as**

defined by the Zoning Ordinance. The structure must also meet accessory structure setbacks, as regulated by the Zoning Ordinance.

- (12) Chickens shall be secured with the enclosure during non-daylight hours.
- (13) In addition to an enclosure, chickens shall be provided access to an outdoor **enclosed** run area for the majority of daylight hours, weather permitting.

SECTION 9. That Chapter 6, Animals, Section 6-7 of the Oshkosh Municipal Code pertaining to Cruelty to Animals, Section (J) is added and the following section is renumbered (K) to read as follows:

- (J) The slaughter of chickens is prohibited.
- (K) The performance of any act prohibited by this Section, or the non-performance of any act required by it, shall be deemed cruelty to animals.

SECTION 10. That Chapter 6, Animals, Section 6-8 of the Oshkosh Municipal Code pertaining to Limit Number of Dogs and Cats the title and (C) are hereby repealed and recreated and the former (C) is changed to (D):

ARTICLE 6-8 LIMIT NUMBER OF ANIMALS

A maximum of four (4) chickens may be kept per residential lot in areas zoned R-1 (Single Family Residence) District or R-2 (Two Family Residence) District provided that all families living in the R-2 property where a chicken license is requested consent to the presence of chickens **and written consent from all abutting neighbors property**

SECTION 11. That Chapter 6, Animals, the title of Section 6-12 of the Oshkosh Municipal Code pertaining to Barking Dogs is hereby repealed and recreated to read as follows:

SECTION 6-12 ANIMAL NOISE

SECTION 12. This ordinance shall be in full **force and effect on July 1, 2011 and after its passage and** publication.

SECTION 13. Publication Notice.

Please take notice that the City of Oshkosh enacted ordinance #11-139 (Amendment to Chapter 6 - Animals, To Allow Urban Chickens In R-1 (Single Family Residence) District Or R-2 (Two Family Residence) District), on (March 22, 2011). The ordinance amendment includes provisions for allowing urban chickens in R-1 or R-2 residential districts provided that ordinance requirements for licensing and the keeping of chickens are met.

The full text of the ordinance may be obtained at the Office of the City Clerk, 215 Church Avenue and through the City's website at www.ci.oshkosh.wi.us. Clerk's phone:

920/236-5011.

BOLD & ITALIC INDICATES AMENDMENTS