

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-100

AN ORDINANCE AMENDING THE ZONING CODE CONCERNING LIVESTOCK
AND KENNELS AND ALSO AMENDING THE ANIMALS CHAPTER OF THE
GENERAL REGULATIONS OF THE CITY OF LAKE ELMO

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by repealing City Code Section 154.914 in its entirety.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title IX: General Regulations; Chapter 95: Animals, by adding the following language:

ARTICLE IV. LIVESTOCK

§ 95.50 LIVESTOCK.

(A) *Purpose.* The purpose of the following sections are to promote and preserve the natural resources within the City of Lake Elmo by regulating the keeping of livestock. Erosion as a result of overgrazing and leeching of manure into groundwater have adverse and potentially irreversible impacts on water quality and environmentally sensitive lands.

(B) ~~(A)~~ *Prohibition of manure deposition without safeguards.* No manure or livestock waste shall be deposited, stored, kept, or allowed to remain upon any site without reasonable safeguards adequate to prevent the escape or movement of the manure or wastes or a solution of the manure or wastes from the site which may result in pollution of any public waters or any health hazard.

(C) ~~(B)~~ *Pollution Control Agency standard minimum requirement.* All regulations imposed by the Minnesota Pollution Control Agency relating to keeping of livestock shall be adhered to and the regulations shall be considered the minimum safeguard necessary to prevent pollution of public water or creation of a health hazard.

(D) ~~(C)~~ *Inadequate safeguards.* In case the Zoning Administrator shall find that any manure is stored or kept on any lot or storage site without a safeguard, or that any existing safeguard is inadequate, the Zoning Administrator may order the owner or other responsible person to immediately remove the manure from the storage site and refrain from further storage or keeping of any manure at the site unless and until an adequate safeguard is provided.

(E) ~~(D)~~ *Hazards and nuisances.* On parcels of less than 40 acres which are not part of a larger crop-producing commercial agricultural farm, the keeping of horses, cattle, or other grazing animals on a site with less than 2 acres of existing grazable land per animal is, by this section, declared to be a nuisance. ~~Horses may be kept on any parcel larger than 5 acres.~~ No domestic farm animals, or livestock, other than chickens or bees, or commercial kennels shall be placed allowed on any site parcel of less than 10 5 acres. No commercial kennels shall be placed on any site of less than 10 acres.

(F) ~~(E)~~ *Grazable acres.* Grazable acreage shall be defined as open, non-treed acreage exclusive of the homesite and yard that is currently providing enough pasture or other agricultural crops capable of supporting summer grazing at a density of 1 ~~cow, or its equivalent,~~ animal unit per 2 acres. Grazable acreage shall not include non-jurisdictional wetlands or slopes over 12%. There is a presumption that 0.5 acres of site are dedicated to the homesite and yard, or considered ungrazable. This presumption is subject to rebuttal if a different calculation can be established by owner and city.

(G) ~~(1)~~ For purposes of these regulations, the following animal equivalents apply: ~~one slaughter steer, heifer or horse 1.0; one mature dairy cow 1.4; one swine over 55 pounds .4; one sheep .1; one turkey .01; one chicken .01; one duck .02.~~ The number of permitted animals shall be determined by the following table:

TYPE OF ANIMAL	ANIMAL UNITS
One slaughter steer, heifer, or mature dairy cow	1.4
One horse, mule, donkey	1.0
One hog/swine	0.5
One sheep or goat, llama, or alpaca	0.2
One turkey or goose	0.1
One duck or other fowl	0.04
One chicken, 5 acres or more	0.02

~~(1)~~ ~~(2)~~ For all other animals, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.

(2) The number of animal units allowed per parcel is cumulative. The animal density per parcel shall not exceed 1 animal unit equivalency per 2 grazable acres.

SECTION 3. The City Council of the City of Lake Elmo hereby ordains that Title XV: Land Usage; Chapter 154: Zoning Code, is hereby amended in the following manner:

§154.012(B)(3)(c) *Commercial Kennel.* The boarding, breeding, raising, grooming or training of ~~two~~four or more dogs, cats, or other domestic pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

§154.012(B)(12)(f) *Kennel, Private.* The keeping, breeding, raising, showing or training of 4 or more dogs, cats, or other domestic pets over ~~six~~four months of age for personal enjoyment of the owner or occupants of the property on parcels 5 acres or greater, and for which commercial gain is not the primary objective. The maximum number of animals allowed is 6.

SECTION 4. The City Council of the City of Lake Elmo hereby ordains that Title XV: Land Usage; Chapter 154: Zoning Code, is hereby amended in the following manner:

§ 154.051 GB – GENERAL BUSINESS.

(A) *Permitted uses and structures.*

(5) *Uses permitted by conditional use permit.:*

Commercial Kennels	
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SECTION 5. The City Council of the City of Lake Elmo hereby ordains that Title XV: Land Usage; Chapter 154: Zoning Code, is hereby amended in the following manner:

Table 9-1 is amended to read as follows:

§ 154.401 PERMITTED AND CONDITIONAL USES.

Table 9.1: Permitted and Conditional Uses, Rural Districts

Accessory Uses						
Kennel, Private	CP	CP	CP	-	-	154.404.I
Stable, Private	CP	CP	CP	-	-	154.404.I

§ 154.404 SITE DESIGN AND DEVELOPMENT STANDARDS.

- I. *Commercial Kennel, Commercial Stable, or Accessory Kennel or Stable, RT, A, RR Districts.* The commercial facility facilities shall occupy a site at least ten (10) acres in size. Outdoor exercise areas shall be located at least 100 feet from adjacent properties; landscaping or other screening may be required. Private kennels or stables shall be allowed on sites at least five (5) acres in size.

SECTION 6. The City Council of the City of Lake Elmo hereby ordains that Title IX: General Regulations; Chapter 95: Animals, is hereby amended in the following manner:

§ 95.05 Number of Dogs and Cats Limited

- A. The keeping of a large number of dogs or cats poses health, safety and public welfare risks and is deemed a public nuisance.
- B. *Cats.* Unless the property owner ~~holds a valid kennel license~~ has an authorized kennel, no individual or family unit living together, firm, or corporation shall keep more than three (3) cats over the age of four (4) months on any parcel not zoned RT, A, or RR.
- C. *Dogs.* Unless the property owner ~~holds a valid kennel license~~ has an authorized kennel, no individual or family unit living together, firm, or corporation shall keep more than three (3) dogs over the age of four (4) months on any parcel not zoned RT, A, or RR.
- D. *Cats and Dogs.* Unless the property owner ~~holds a valid kennel license~~ has an authorized kennel, no individual or family unit living together, firm, or corporation shall keep more than a combination of three (3) cats and dogs over the age of four (4) months on any parcel not zoned RT, A, or RR.

§ 95.10 Prohibition of Kennels; Private Kennels

- A. No commercial kennels may be established in the city unless a special use permit has been issued for the kennel as provided by the city ordinances regulating land use.
- B. An individual or family unit living together, firm, or corporation may keep a private kennel consisting of a combination of no more than six (6) domestic pets over the age of four (4) months on any parcel 5 acres or greater in size and located in zoning districts RT, A, or RR.

Cross Reference: § 11.01 Definitions; §154.012 et seq. Zoning Use Types and Classifications.

SECTION 7. The City Council of the City of Lake Elmo hereby amends Title IX: General Regulations; Chapter 95: Animals, by adding the following language:

ARTICLE V. KEEPING OF CHICKENS

- Sec. 95.60. Definitions
- Sec. 95.61. Purpose
- Sec. 95.62. Investigation and Enforcement
- Sec. 95.63. Keeping of Chickens
- Sec. 95.64. Permit Required; Term, Consent, Fee
- Sec. 95.65. Application
- Sec. 95.66. Permit Conditions
- Sec. 95.67. Violations
- Sec. 95.68. Issuance, Revocation

§ 95.60. 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:

Brooding means the period of chicken growth when supplemental heat must be provided, due to the bird’s inability to generate enough body heat.

Chicken means a domesticated bird that serves as a source of eggs or meat (*Gallus gallus domesticus*).

Coop means the structure for the keeping or housing of chickens permitted by the article.

Exercise yard means a larger fenced area that provides space for exercise and foraging for the birds when supervised.

Hen means a female chicken.

Officer means any person designated by the city as an enforcement officer.

Rooster means a male chicken.

Run means a fully-enclosed and covered area attached to a coop where the chickens can roam unsupervised.

§ 95.61. Purpose.

It is recognized that the ability to cultivate one’s own food is a sustainable activity that can also be a rewarding pastime. Therefore, it is the purpose and intent of this article to permit the keeping and maintenance of hens for egg and meat sources in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety, and welfare of the community.

§ 95.62. Investigation and Enforcement.

Officers designated by the city shall have authority in the investigation and enforcement of this article, and no person shall interfere with, hinder or molest any such officer in the exercise of such powers. The city shall make investigations as is necessary and may grant, deny, or refuse to renew any application for permit, or terminate an existing permit under this article.

§ 95.63. Keeping of Chickens.

A. Chickens on less than 5 acres.

<u>Lot Size (acres)</u>	<u>Chickens Allowed</u>
<u>0.00 – 0.49</u>	<u>0</u>
<u>0.50 – 0.99</u>	<u>4</u>
<u>1.00 – 1.49</u>	<u>6</u>
<u>1.50 – 1.99</u>	<u>8</u>
<u>2.00 – 2.49</u>	<u>10</u>
<u>2.50 – 2.99</u>	<u>12</u>
<u>3.00 – 3.49</u>	<u>14</u>
<u>3.50 – 3.99</u>	<u>16</u>
<u>4.00 – 4.49</u>	<u>18</u>
<u>4.50 – 4.99</u>	<u>22</u>

B. Chickens on 5 acres or more.

Chickens maintained on parcels of 5 acres or more are restricted to 0.02 animal units per acre. A permit is not required for keeping chickens on a parcel size of 5 acres or more. For reference, see “Animal Unit Equivalency” chart in Section 95.50

§ 95.64. Permit Required; Term, Consent, Fee.

- A. No person shall (without first obtaining a permit in writing from the City Clerk) own, keep, harbor, or have custody of any live chicken on a lot less than five (5) acres.
- B. The first permit is valid for up to two (2) years beginning on the date of issuance and ending on December 31 of the following year. Subsequent permits are valid

from January 1 to December 31.

- C. Prior to issuance of a permit, notices must be mailed to all homes within 150 feet of the applicant's property lines.
- D. The fee for a permit may be imposed, set, established and fixed by the city council, by ordinance, from time to time.

§ 95.65. Application.

Any person desiring a permit required under the provisions of this article shall make written application to the city clerk upon a form prescribed by and containing such information as required by the city. Among other things, the application shall contain the following information:

- 1. A description of the real property upon which it is desired to keep the chickens.
- 2. The breed and number of chickens to be maintained on the premises.
- 3. A site plan of the property showing the location and size of the proposed chicken coop and run, setbacks from the chicken coop to property lines and surrounding buildings (including houses and buildings on adjacent lots), and the location, type, and height of fencing proposed to contain the chickens in a run or exercise area. Portable coops and cages are allowed, but portable locations must be included with the site plan.
- 4. Statements that the applicant will at all times keep the chickens in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this article and grounds for cancellation of the permit.
- 5. Such other and further information as may be required by the officer.

§ 95.66. Permit Conditions.

Each person keeping chickens within the City of Lake Elmo shall comply with the following:

- 1. No person may keep a rooster or crowing hen.
- 2. No person may allow chickens to range freely without fencing or without a mobile pen.
- 3. No person may keep chickens inside the house or attached garage.
- 4. Chickens must be provided a secure and well ventilated roofed structure ("chicken coop")
- 5. The roofed structure and required fencing for the chickens may only be located in a rear yard and must meet setback and building separations as established in city zoning and building codes, except that the roofed structure and fencing must maintain a 20 foot separation from dwellings on adjacent properties.
- 6. The roofed structure shall be fully enclosed, wind proof, and have sufficient windows for natural light.
- 7. Chickens, coops, and/or runs shall not be kept in such a manner as to constitute a nuisance.

8. The chicken coop and run shall be kept in good repair as to be in compliance with the property maintenance regulations elsewhere in the Code.
9. All chicken coops must have a minimum size of four (4) square feet per bird and must be at least six (6) feet in height to allow access for cleaning and maintenance.
10. Fenced in chicken runs must have a minimum of ten (10) square feet per bird and must be at least six (6) feet in height to allow access for cleaning and maintenance.
11. All butchering waste shall be disposed of in a sanitary manner.
12. Dead chickens must be disposed of according to the Minnesota Board of Animal Health rules which require chicken carcasses to be disposed of as soon as possible after death, usually within 48 to 72 hours. Legal forms of chicken carcass disposal include burial, off-site incineration or rendering, or composting.

§ 95.67. Violations.

1. Any person violating any of the sections of this article shall be deemed guilty of a misdemeanor and upon conviction, shall be penalized in accordance with Section 10.99.
2. If any person is found guilty by a court for violation of this section, their permit to own, keep, harbor, or have custody of chickens shall be deemed automatically revoked and no new permit may be issued for a period of one year.
3. Any person violating any conditions of this permit shall reimburse the city for all costs borne by the city to enforce the conditions of the permit including, but not limited to, the pickup and impounding of chickens.

§ 95.68. Issuance, Revocation.

A. If granted, the permit shall be issued by the city clerk and officer and shall state the conditions, if any, imposed upon the permitted for the keeping of chickens under this permit. The permit shall specify the restrictions, limitations, conditions and prohibitions which the officer deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health and safety. Such permit may be modified from time to time or revoked by the officer for failure to conform to such restrictions, limitations, or prohibitions. Such modification or revocation shall be effective after ten days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintaining such chickens.

B. The city may revoke any permit issued under this article if the person holding the permit refuses or fails to comply with this article, with any regulations promulgated by the city council pursuant to this article, or with any state or local law governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within ten days thereafter, humanely dispose of all chickens being owned, kept or harbored by such person, and no part of the permit fee shall be refunded.

SECTION 8. The City Council of the City of Lake Elmo hereby amends Title IX: General Regulations; Chapter 95: Animals, by adding the following language:

ARTICLE VI. KEEPING OF BEES

<u>Sec. 95.50</u>	<u>Definitions</u>
<u>Sec. 95.51</u>	<u>Purpose of Ordinance</u>
<u>Sec. 95.52</u>	<u>Standards of Practice</u>
<u>Sec. 95.53</u>	<u>Colony Density</u>
<u>Sec. 95.54</u>	<u>Permit Required</u>
<u>Sec. 95.55</u>	<u>Penalty for Violation of Section</u>

§ 95.70 Definitions

The following words and terms shall have meanings ascribed in this section unless the context of their used indicates another usage:

Apiary means the assembly of one or more colonies of bees at a single location.

Beekeeper means a person who owns or has charge of one or more colonies of bees.

Beekeeping equipment means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

Colony means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

Hive means the receptacle inhabited by a colony that is manufactured for that purpose.

Honey bee means all life stages of the common domestic honey bee, *apis mellifera* (African subspecies and Africanized hybrids are not allowed).

Lot means a contiguous parcel of land under common ownership.

§ 95.71 Purpose of Ordinance

The purpose of this section is to establish certain requirements for beekeeping within the city, to avoid issues that might otherwise be associated with beekeeping in populated areas.

1. Compliance with this section shall not be a defense to a proceeding alleging that a given colony constitutes a nuisance, but such compliance may be offered as evidence of the beekeeper's efforts to abate any previous nuisance.

2. Compliance with this section shall not be a defense to a proceeding alleging that a given colony violates applicable ordinances regarding public health, but such compliance may be offered as evidence of the beekeeper's compliance with acceptable standards of practice among hobby beekeepers in the State of Minnesota.

§ 95.72 Standards of Practice

These standards of practice apply only to lots smaller than five (5) acres.

1. Honey bee colonies shall be kept in hives with removable frames, which must be kept

in sound and usable conditions.

2. Each beekeeper must ensure that a convenient source of water is available within ten feet of each colony at all times that the colonies remain active outside the hive.
3. Each beekeeper must ensure that no wax comb or other material that might encourage robbing by other bees that are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers, or placed within a building or other vermin-proof container.
4. Each beekeeper shall maintain his beekeeping equipment in good condition, including keeping the hived painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms.
5. Honey bee colonies may only be kept on lots one acre or larger.
6. Each beekeeper is allowed to make in person sales of honey from the beekeeper's residence as long as the following standards are met:
 - i. The beekeeper must live on the apiary lot;
 - ii. All honey sold in person on the residential premise must be produced by the beekeeper's hives that are located on the subject residential premise;
 - iii. No products may be sold in person at the residence except honey and honey related products produced from hives on the premise;
 - iv. No outside storage or display of products or merchandise;
 - v. No traffic that is greater than the residential level of the neighborhood;
 - vi. No separate business entrance;
 - vii. All signage must comply with city sign regulations;
 - viii. Not more than 15 percent of the total gross floor area of the residence or 200 square feet, whichever is less is devoted to making, storing, and selling honey;
 - ix. No activity or equipment may be used that creates noise, vibration, glare, fumes, odor, or electric or television interference is permitted if it is detectable by adjacent neighbors; and
 - x. No nonresident employees are permitted.

§ 95.73 Colony Density

1. No person is permitted to keep more than the following numbers of colonies on any lot within the city, based upon the size of the apiary lot:
 - i. Lots three-quarters of one acre or larger but smaller than two and one-half acres: four colonies;
 - ii. Two and one-half acre lot or larger but smaller than five acres: six colonies;
 - iii. Five acres or larger: no restriction.
2. Colonies must be setback 25 feet from the property line of an adjacent occupied residential lot.

§ 95.74 Permit Required

1. No beekeeping may occur on properties of less than five (5) acres unless the city issues a permit to the beekeeper on that specific property. The permit will be valid for two growing seasons.
2. A beekeeping permit will only be issued if:
 - a. The permit application documents the satisfaction of all applicable items found in Sections 95.70-95.76 of the City Code, and
 - b. Notices have been mailed to all homes within 150 feet of the applicant's property lines.
 - i. If there are objections received within ten days of mailing the notices, then the permit application must be considered by the city council.
 - ii. If there are no objections received within ten days of mailing the notices, then the permit application will be processed by city staff. It will not be referred to the city council for consideration.
3. Permits are non-transferable and do not run with the land.
4. A permit constitutes a limited license granted to the beekeeper by the city and in no way creates a vested zoning right.
5. By signing the permit, the beekeeper acknowledges that he or she shall defend and indemnify the city against any and all claims arising out of keeping the bees on the premises.
6. Beekeeping permit fees shall be as established by the city council.
7. All standards of practice and colony density standards must be met in order to issue a permit.
8. If the standards of practice are not maintained subsequent to issuance of a beekeeping permit, the permit may be revoked by the city.
9. Beekeeping training is required for the beekeeper prior to issuance of an initial beekeeping permit by the city.
 - i. Either provide a certificate of completion from a honeybee keeping course from the University of Minnesota or from Century College;
 - ii. Request consideration for having completed a comparable course from another institution or instructor;
 - iii. Request consideration for substituting equivalent experience for the honeybee keeping course; or
 - iv. Provide a letter from a current beekeeping instructor at the University of Minnesota,

Century College, or other educational institution offering similar beekeeping courses that states that the permit applicant has gained through other means a substantially similar knowledge base to one that could be gained through appropriate beekeeping courses at the University of Minnesota or Century College.

10. Any beekeeper wishing to make in person sales of honey from their home according to the standards of practice section must so indicate on the annual permit.

§ 95.75. Application.

Any person desiring a permit required under the provisions of this article shall make written application to the city clerk upon a form prescribed by and containing such information as required by the city. Among other things, the application shall contain the following information:

1. A description of the real property upon which it is desired to keep the bees.
2. A site plan of the property showing the location and size of the proposed apiary, the number of hives, setbacks from apiary to property lines and surrounding buildings (including houses and buildings on adjacent lots), and the location, type, and height of any related flyways.
3. Statements that the applicant will at all times keep the bees in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this article and grounds for cancellation of the permit.
4. Such other and further information as may be required by the officer.

§ 95.76 Penalty for Violation of Section

Any person who shall violate the provisions of this section shall be guilty of a misdemeanor and upon conviction, shall be penalized in accordance with Section 10.99.

SECTION 9. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 10. Adoption Date. This Ordinance 08-100 was adopted on this _____ day of _____ 2014, by a vote of _____ Ayes and _____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson
Mayor

ATTEST:

Adam Bell
City Clerk

This Ordinance 08-100 was published on the _____ day of _____, 2013.