



## STAFF REPORT

DATE: August 8, 2018

**REGULAR**

ITEM #: 7

**MOTION**

**TO:** City Council  
**FROM:** Emily Becker, Planning Director  
**AGENDA ITEM:** Review of the Chicken Ordinance  
**REVIEWED BY:** Ben Prchal, City Planner

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### **BACKGROUND:**

Staff had been asked to prepare an analysis of surrounding communities and their rules relating to the keeping of chickens. The Council had reviewed the analysis at its workshop on January 9, 2018 and directed Staff to increase the number of chickens allowed on properties within the City. The Council tabled this item at its February 20, 2018 meeting.

### **PROPOSAL DETAILS/ANALYSIS:**

**Current Ordinance.** The number of chickens that a property owner may have is dependent upon the number of acres that their property consists of. As of now chickens are not allowed to be kept on property that is .49 acres or less. For reference chickens kept on properties of 5 acres or more are restricted to 0.02 animal units per 2 grazable acres (50 chickens per 2 grazable acres).

#### **Amendments to Chapter 95 as it pertains to Chickens.**

*Staff has chosen to outline some of the more "significant" changes to the ordinance.*

#### **95.108 Keeping of Chickens**

The number of chickens allowed is still being kept to zero on lots of .45 acres or less. However, all other lot sizes have received an increase of two (2) with the exception of 4.5 – 4.99 acre lots, there was an increase of 8 (up to 30 chickens proposed).

#### **95.109 Permit Required; Term, Consent, Fee**

All permits are now valid for two years instead of alternating from two years to one year after the first two years. (*See ordinance amendment for further clarification*)

Notices are no longer required to be sent to neighbors within 150 ft.

#### **95.111 Permit Conditions**

Chicken coops were always required to maintain the designated setbacks. Staff had felt this further clarified where they should be placed if there was a question in regards to location.

### **FISCAL IMPACT:**

None.

**OPTIONS:**

- Adopt Ordinance 08-216 to approve amendments to chapter 95 Keeping of Chickens
- Deny Ordinance 08-216 which is amending chapter 95 Keeping of Chickens
- Adopt Ordinance 08-216 with amendments

**RECOMMENDATION:**

Staff is recommending approval of the amendments made to chapter 95 as it pertains to the keeping of chickens.

*“Motion to adopt Ordinance 08-216 amending chapter 95 Keeping of chickens”*

*And*

*“Motion to adopt Resolution 2018-087 authorizing summary publication of Ordinance 08-216”*

**ATTACHMENTS:**

1. Ordinance 08-216
2. Resolution 2018-087

**CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA**

**ORDINANCE NO. 08—216**

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY  
AMENDING REGULATIONS PERTAINING TO THE KEEPING OF CHICKENS**

**SECTION 1.** The City Council of the City of Lake Elmo hereby amends Title IX: General Regulations; Chapter 95: Animals, by amending the following:

**KEEPING OF CHICKENS**

**§ 95.105 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BROODING.** the period of chicken growth when supplemental heat must be provided, due to the bird's inability to generate enough body heat.

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

**COOP.** The structure for the keeping or housing of chickens permitted by the subchapter.

**EXERCISE YARD.** A larger fenced area that provides space for exercise and foraging for the birds when supervised.

**HEN.** A female chicken.

**OFFICER.** Any person designated by the city as an enforcement officer.

**ROOSTER.** A male chicken.

**RUN.** A fully-enclosed and covered area attached to a coop where the chickens can roam unsupervised.  
(Ord. 08-100, passed 2-18-2014)

**§ 95.106 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 subchapter 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.

(Ord. 08-100, passed 2-18-2014)

**§ 95.107 INVESTIGATION AND ENFORCEMENT.**

Officers designated by the city shall have authority in the investigation and enforcement of this subchapter, 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 subchapter.

(Ord. 08-100, passed 2-18-2014)

**§ 95.108 KEEPING OF CHICKENS.**

(A) *Chickens on less than 5 acres.*

<i>Lot Size (Acres)</i>	<i>Chickens Allowed</i>
0.00 - 0.49	0
0.50 - 0.99	<del>4</del> <u>6</u>
1.00 - 1.49	<del>6</del> <u>8</u>
1.50 - 1.99	<del>8</del> <u>10</u>
2.00 - 2.49	<del>10</del> <u>12</u>
2.50 - 2.99	<del>12</del> <u>14</u>
3.00 - 3.49	<del>14</del> <u>16</u>
3.50 - 3.99	<del>16</del> <u>18</u>
4.00 - 4.49	<del>18</del> <u>20</u>
4.50 - 4.99	<del>22</del> <u>30</u>

(B) *Chickens on 5 acres or more.* Chickens maintained on parcels of 5 acres or more are ~~restricted to~~allotted 0.02 animal units per 2 grazable acres. 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 § 95.090.

(Ord. 08-100, passed 2-18-2014)

#### **§ 95.109 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 5 acres without first obtaining a permit from the City Clerk.

(B) ~~The first permit is~~ Permits are valid for up to 2 years beginning on the date of issuance and ending on December 31 of the ~~following~~ second 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.~~

(~~DC~~) The fee for a permit may be imposed, set, established and fixed by the city council, by ordinance, from time to time.

(Ord. 08-100, passed 2-18-2014) Penalty, see § 10.99

#### **§ 95.110 APPLICATION.**

Any person desiring a permit required under the provisions of this subchapter 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:

(A) A description of the real property upon which it is desired to keep the chickens.

(B) The ~~breed and~~ number of chickens to be maintained on the premises.

(C) 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.

(D) 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.

(E) Such other and further information as may be required by the officer.

(Ord. 08-100, passed 2-18-2014)

#### **§ 95.111 PERMIT CONDITIONS.**

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

(A) No person may keep a rooster or crowing hen.

(B) No person may allow chickens to range freely without fencing or without a mobile pen.

(C) No person may keep chickens inside the house or attached garage.

(D) Chickens must be provided a secure and well ventilated roofed structure (“chicken coop”).

(E) 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 as well as adhere to the minimum setback requirements for accessory structures.

(F) The roofed structure shall be fully enclosed, wind proof, and have sufficient windows for natural light.

(G) Chickens, coops, and/or runs shall not be kept in such a manner as to constitute a nuisance.

(H) 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.

(I) All chicken coops must have a minimum size of 4 square feet per bird and must be at least 4 feet in height.

(J) Fenced in chicken runs must have a minimum of 10 square feet per bird and must be at least 4 feet in height.

(K) All butchering waste shall be disposed of in a sanitary manner.

(L) 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.

(Ord. 08-100, passed 2-18-2014; Am. Ord. 08-177, passed 6-20-2017) Penalty, see § 10.99

#### **§ 95.112 VIOLATIONS.**

(A) 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 § 10.99.

(B) 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 1 year.

(C) 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.

(Ord. 08-100, passed 2-18-2014)

**§ 95.113 ISSUANCE, REVOCATION.**

(A) If granted, the permit shall be issued by the city 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 city 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 city for failure to conform to such restrictions, limitations, or prohibitions. Such modification or revocation shall be effective after 10 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 subchapter if the person holding the permit refuses or fails to comply with this subchapter, 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 10 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.

(Ord. 08-100, passed 2-18-2014)

**SECTION 2. Effective Date.** This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

**SECTION 3. Adoption Date.** This Ordinance 08-\_\_\_ was adopted on this \_\_\_\_\_ day of \_\_\_ 2018, by a vote of \_\_\_ Ayes and \_\_\_ Nays.

**LAKE ELMO CITY COUNCIL**

\_\_\_\_\_  
Mike Pearson, Mayor

ATTEST:

\_\_\_\_\_  
Julie Johnson, City Clerk

This Ordinance 08-~~\_\_\_~~-216 was published on the \_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA**

**RESOLUTION NO. 2018-087**

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-216 BY TITLE  
AND SUMMARY**

**WHEREAS**, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-216, an ordinance amending chapter 95 as it pertains to the keeping of chickens within the City; and

**WHEREAS**, the ordinance is lengthy; and

**WHEREAS**, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

**WHEREAS**, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-216 to be published in the official newspaper in lieu of the entire ordinance:

**Public Notice**

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-216, which amends the language in chapter 95 as it applies to the keeping of chickens within the City of Lake Elmo.

- As defined in by the table in 95.108, all properties have received an increase of two chickens. With the exclusion of land .49 acres or less which will remain at zero and 4.5-4.99 acres which received an increase of eight.
- All permits shall last for a duration of two years and notification to neighbors is no longer required.
- Chicken coops must adhere to accessory building setback requirements.

The full text of Ordinance No. 08-216 is available for inspection at Lake Elmo city hall during regular business hours.

**BE IT FURTHER RESOLVED** by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: August 8, 2018

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Mayor Mike Pearson

ATTEST:

\_\_\_\_\_  
Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member \_\_\_\_\_ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.