



MAYOR AND COUNCIL COMMUNICATION

DATE: 8/16/2016

REGULAR

ITEM #: 21

AGENDA ITEM: Pigeon Ordinance
SUBMITTED BY: Emily Becker, City Planner
THROUGH: Kristina Handt, City Administrator
REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

In late 2015, Planning Director Wensman had received an inquiry regarding the keeping of pigeons in the City and found that the City Ordinance did not address the issue. Chapter 95: Animals, of the City Code, does not currently address the keeping of pigeons. Pigeons are not considered farm animals nor are they pets. Without an ordinance for the keeping of pigeons, any future pigeon issues would be regulated by complaints through the nuisance ordinance. The issue was originally discussed at the Planning Commission and it was recommended that an ordinance written to regulate the keeping of pigeons. Staff prepared a draft ordinance, held a public hearing on the ordinance at the January 11, 2016 Planning Commission meeting and the Commission recommended that the City Council approve the ordinance.

ISSUE BEFORE COUNCIL:

The Council should consider if an ordinance should be adopted regulating the keeping of pigeons. If the Council decides such an ordinance should be adopted, it should consider if the provisions set forth in the Ordinance are appropriate for the City.

PROPOSAL DETAILS/ANALYSIS:

The ordinance was drafted based on review of several Wisconsin ordinances, the Gem Lake and Forest Lake ordinances, and followed the City of Lake Elmo Chicken Ordinance as a template. Gem Lake's ordinance regulating pigeons is most similar to the proposed ordinance. Staff research found that the cities of Oakdale, Woodbury, Maplewood, and Stillwater do not have ordinances for the keeping of pigeons.

The proposed ordinance has the following key components:

- A property must be zoned RR – Rural Residential or A – Agricultural and be 2.5 acres or greater in size.
- There cannot be more than 20 pigeons per lot.
- Property must be the primary residence of the pigeon keeper.
- A permit is required, requiring much of the same application materials as a Chicken Keeping Permit requires.
- Permit conditions are set forth including:

- The requirement to keep the pigeon premises clean.
- Food storage restrictions.
- Treatment of pigeons.
- Disposal standards.
- Loft requirements:
 - Setback 50 feet from property line and adjacent habitable structures.
 - Must be no more than 12 feet high and 200 square feet in floor area.
 - Enclosure standards.
- Violations and permit issuance and revocation are outlined and are very similar to those of the current ordinance that sets forth standards for the keeping of chickens.

FISCAL IMPACT:

Setting forth such standards may reduce future staff time spent on nuisance complaints pertaining to the keeping of pigeons.

PLANNING COMMISSION/PUBLIC HEARING:

A public hearing was held on January 11, 2016 with no public comment. Commissioner Dodson questioned why the loft requirements were so specific and why restricting the keeping of pigeons to the Agricultural and Rural Residential Districts. There was also a question by Commissioner Williams as to how the number of birds (20) was arrived at. Commissioner Williams also requested 2 additional requirements to the ordinance. Staff has included both. As a whole the Commission discussed the appropriate number of pigeons to allow. Commissioner Dodson thought 60 would be appropriate and Commissioner Larson thought no more than 100. The Commission ultimately decided it was better to be more restrictive and settled back to the number 20.

Since the Commission meeting, Staff reevaluated the number of pigeons that could be housed in a 200 sq. ft. loft and it is upward of 200 depending on how the loft were designed with a center aisle. It is Staff's understanding that most pigeon fanciers prefer to keep flocks of 100 or more pigeons at a time. The person who initially inquired about keeping pigeons wanted to keep 100 pigeons. The City of Gem Lake restricts the number of pigeons to 120.

OPTIONS:

The Council may:

- Approve the ordinance as proposed.
- Amend the ordinance and approve the ordinance as amended.
- Deny the ordinance.

RECOMMENDATION:

Staff respectfully requests that the Council approve, as recommended by the Planning Commission, the proposed ordinance regulating the keeping and maintaining of pigeons.

“Move to approve Ord. 08-148 regulating the keeping and maintaining of pigeons.”

In addition, Staff is recommending that the City Council authorize summary publication of the approved ordinance through the following resolution:

“Move to adopt Resolution 2016-68, authorizing summary publication of Ordinance 08-148”

ATTACHMENTS:

- Ord. 08-148
- Resolution 2016-68
- Planning Commission meeting minutes, 1/11/16
- Gem Lake Ordinance

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

ORDINANCE NO. 08-148

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
ADDING SECTIONS 95.114-95.122 WHICH PERTAIN TO KEEPING AND
MAINTAINING PIGEONS.**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Chapter 95: Animals of the City Code by inserting the following new sections:

KEEPING AND MAINTAINING PIGEONS

§ 95.114 DEFINITIONS.

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

LOFT. Any and all quarters in which pigeons are housed.

PIGEON. Any and all varieties and breeds of pigeons.

§ 95.115 PURPOSE.

The purpose of this subchapter is to establish certain requirements for keeping and maintaining pigeons to avoid issues that might otherwise be associated with keeping and maintaining pigeons in populated areas.

§ 95.116 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.

§ 95.117 KEEPING OF PIGEONS.

(A) Pigeons shall only be permitted on lots 2.5 acres or greater in size in the RR – Rural Residential and A-Agriculture zoning districts.

(B) Maximum number of pigeons shall be no more than twenty (20) per residential lot.

(C) The property will be the primary residence of the pigeon keeper.

§ 95.118 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 pigeons within the city of Lake Elmo.

(B) The first permit is valid for up to 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.

§ 95.119 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 pigeons.

(B) The number of pigeons to be maintained on the premises.

(C) A site plan of the property showing the location and size of the proposed loft, and/or aviary, setbacks from the loft to property lines and surrounding buildings (including houses and buildings on adjacent lots).

(D) Statements that the applicant will at all times keep the pigeons 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.

§ 95.120 PERMIT CONDITIONS.

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

(A) No loft for keeping or confining pigeons shall be maintained or operated in any manner which violates the city building code or zoning ordinance.

(B) Pigeons must be banded in a way to identify each pigeon as kept by its owner.

(C) All premises on which pigeons are kept and maintained shall be kept reasonably clean and free from filth, garbage and such substances which attract rodents at all times.

(D) All pigeons shall be fed within the confines of the loft or premises on which pigeons are housed.

(E) All grains and food stored for the use of pigeons shall be kept in rodent-proof containers.

(F) Pigeons shall be exercised and permitted to fly only when under control of the permit holder or their representative.

(G) All aviaries shall be completely enclosed with wire netting or equivalent material that will prevent pigeons from escaping the confines of the loft or coop.

(H) The outline of the loft to house said pigeons shall be of such design to conform to the symmetry of the existing buildings.

(I) The loft must provide a minimum 4 cubic feet of space per bird. The loft must be enclosed with wire netting or equivalent material that will prevent pigeons from escaping the confines of the loft. Lofts must be elevated a minimum of six inches and a maximum of twelve inches above grade to ensure free-way beneath the loft. Lofts shall rest upon concrete footings, cement blocks, or other suitable foundation material. A loft may have a maximum height of 12 feet and a maximum floor area of 200 square feet and must comply with Section 154.406.

(K) Pigeon lofts may be located in the rear yard only and shall be at least 50 feet from adjacent property lines and habitable structures.

(L) The property upon which pigeons are kept shall have established a principal use conforming to the zoning ordinance.

(M) Dead Pigeons must be disposed of according to the Minnesota Board of Animal Health rules which require pigeon carcasses to be disposed of as soon as possible after death, usually within 48 to 72 hours. Legal forms of Pigeon carcass disposal include burial, off-site incineration or rendering, or composting.

§ 95.121 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 pigeons 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 pigeons.

§ 95.122 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 pigeons 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 pigeons.

(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 pigeons being owned, kept or harbored by such person, and no part of the permit fee shall be refunded.

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 No. 08-148 was adopted on this ____ day of _____, 2016, by a vote of _ Ayes and _ Nays.

Mayor Mike Pearson

ATTEST:

Kristina Handt
City Administrator

This Ordinance No. 08-148 was published on the ____ day of _____, 2016.

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

RESOLUTION NO. 2016-68

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-148 BY TITLE
AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-148, an ordinance regulating the keeping and maintenance of pigeons; 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. 08-148 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. 08-148 regulating the keeping and maintaining of pigeons by:

- Restricting the keeping of pigeons to lots 2.5 acres or more in size and in RR – Rural Residential and A – Agricultural zoning districts.
- Limiting the number of pigeons to no more than 20 per residential lot.
- Requiring a permit, outlining application requirements.
- Setting forth permit conditions in regards to the maintenance of pigeons and loft standards.

The full text of Ordinance No. 08-148 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 16, 2016

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.

M/S/P: Williams/Kreimer, move to recommend rezoning of the Inwood booster station property from RR to the PF zoning district, ***Vote: 5-0, motion carried Unanimously.***

Ordinance Amendment – a request for an ordinance amendment to the animal ordinance that pertains to the keeping of pigeons.

Wensman started his presentation stating that he had an inquiry regarding the keeping of pigeons. Currently pigeons are not regulated. Wensman researched what other Citys do. He used the Gem Lake ordinance as a guide and also used our accessory building ordinance as a guide to know how many pigeons would fit in what size building. The minimum lot size would be 2.5 acres and it would only apply to AG and RR zoning. Maximum number allowed would be 20 and they would need to be banded. Aviaries would need to be enclosed. The loft area would have an area of 4 cubic feet per bird and the maximum loft height would be 12 feet with a maximum of 200 square feet. They would need to be located in the rear property 50 feet away from any habitable structures.

Dodson thinks the construction of the loft is very specific and is wondering why. Wensman stated it was taken out of other code and is probably to keep the birds safe from predators. Dodson was also wondering why it is limited to RR and AG. Wensman stated it is because he is trying to restrict it to where there is the least potential for complaints.

Williams asked how the number 20 was arrived at. Wensman stated that he looked at the size of the accessory building and worked backwards. Williams is not sure that 20 is enough.

Public Hearing opened at 10:04 pm.

No one spoke and there was no written or electronic correspondence.

Public Hearing Closed at 10:05 pm.

Dodson would like to see the number increased to 60. Larson would like to see 100 as a maximum.

Kreimer thinks that is a lot of birds on a 2.5 acre lot. No one spoke at the public hearing and he thinks that we should be restrictive until someone comes in and asks for more. Griffin stated that it can be a big nuisance if they are not taken care of and saw it first hand this summer. Dunn agrees that we should add to the code, but should be more restrictive for now. Kreimer would like to see on page 3 letter K read "Pigeon lofts may be located in the rear yard only and shall be at least 50 feet from property lines and adjacent habitable structures." Williams would like to include in 95.117 an item C that

would state “Any property where pigeons would be kept will have a principle use conforming to the zoning ordinance.”

Williams would like to add under 95.117 letter D “The property will be the primary residence of the pigeon keeper.”

M/S/P: Williams/Kreimer move to recommend approval of the ordinance pertaining to the keeping of pigeons with the 3 suggested changes, ***Vote: 5-0, motion carried, unanimously.***

Ordinance Amendment – a request for an ordinance amendment to the weapons ordinance as it pertains to hunting.

Wensman started his presentation and stated that this is being brought forward based on the number of calls the City received this fall. Wensman stated that the City might want to consider producing a map each year to designate where hunting is allowed. Public Park, public trail, ROW and public school was specifically added. Wensman ran these changes through Washington County sheriff and they were in support and liked the idea of a map.

Griffin would like to see some distinction between shotguns and rifles. She would like to see rifles prohibited in the City. The Commission was wondering how this applies to conceal and carry and how 130.15 (B) (2) would apply. Wensman stated that he can bring it back to the City Attorney. Dodson asked how much of this had to do with land use and if it really needed to come to the Planning Commission.

Public Hearing opened at 10:30 pm.

No one spoke and there was no written or electronic correspondence.

Public Hearing Closed at 10:30 pm.

Kreimer was wondering where paint ball, air guns, etc. would fall in this scope. Wensman stated that he looked at it only from the standpoint of hunting.

M/S/P: Williams/Kreimer move to postpone consideration of the weapons and hunting ordinance until clarification on 4 issues is received, ***Vote: 5-0, motion carried, unanimously.***

Council Updates – December 15, 2015 Meeting

1. CUP Amendment-Oakdale Gun Club – Approved.
2. Preliminary Plat Approval-Reider – approved.
3. ZTA-Uses in Rural Districts – Repeal uses that were added in 2013.

CITY OF GEM LAKE, RAMSEY COUNTY, MINNESOTA

ORDINANCE NO. 110

AN ORDINANCE TO PERMIT AND REGULATE THE KEEPING OF PIGEONS IN THE CITY OF GEM LAKE, AMENDING ORDINANCE NO. 69.

THE CITY COUNCIL OF THE CITY OF GEM LAKE ORDAINS:

SECTION 1. Intent and Purpose. It is the purpose and intent of this ordinance to permit the keeping, maintenance and flying of certain registered pigeons as a recreational sport and hobby, subject to regulations hereinafter set forth. The keeping, breeding, maintenance and flying of fancy, racing and sporting breeds of pigeons, as defined herein, is determined not to be a nuisance and is not detrimental to the public welfare, if regulated as hereafter set forth. It is recognized that the keeping, breeding, maintenance and flying of such pigeons is now mainly engaged in by members of local, district and national organizations, and such persons keep their pigeons in suitable permanent structures constructed and maintained for such purpose, and keep such structures in a clean and sanitary manner, and do not permit their pigeons to remain at large in the community in such manner as to disturb their neighbors or to prevent the full enjoyment of property rights by their neighbors.

SECTION 2. AMENDMENT. Section 2.3 of Ordinance 69 is amended, to add the following definitions:

Pigeon. A member of the family Columbidae, and shall include "Racing Pigeons", "Fancy Pigeons" and "Sporting Pigeons" as defined in this ordinance.

Pigeon - Fancy Pigeon. A pigeon which, through past breeding, has developed certain distinctive physical and performing characteristics as to be clearly identified and accepted as such by the National Pigeon Association, the American Pigeon Club, or the Rare Breeds Pigeon Club. Examples: Fantails, Pouters, Trumpeters.

Pigeon - Loft. A structure for the keeping or housing of pigeons.

Pigeon - Mature Pigeon. A pigeon aged six months or older.

Pigeon - Racing Pigeon. A pigeon which, through selective past breeding, has developed the distinctive physical and mental characteristics as to enable it to return to its home after having been released a considerable distance therefrom, and which is accepted as such by the American Racing Pigeon Union, Inc. or the International Federation of Racing Pigeon Fanciers. Common names are Racing Homer, Homing Pigeon, or Carrier Pigeon.

Pigeon - Sporting Pigeon. A pigeon which, through selective past breeding, has developed the ability to fly in a distinctive manner, such as aerial acrobatics or endurance flying. Examples: Rollers, Tipplers.

SECTION 3. AMENDMENT. Section 3 of Ordinance 69 is amended to add the following sub-sections:

Section 3.12 Keeping of Pigeons. The keeping, breeding, maintenance and flying of pigeons may be permitted subject to the following:

3.12.1 A loft must be constructed and maintained to keep and confine the pigeons. The loft must provide at least nine cubic feet of space per bird. The loft must be enclosed with wire netting or equivalent material that will prevent pigeons from escaping the confines of the loft. Lofts must be elevated a minimum of six inches and a maximum of twelve inches above grade to ensure free-way beneath the loft. Lofts shall rest upon concrete footings, cement blocks, or other suitable foundation material. A loft may have a maximum height of nine feet.

3.12.2 The loft must be constructed and maintained so as to be rodent-proof.

3.12.3 The owner may construct pigeon lofts up to a cumulative maximum floor area of 200 square feet. Any single loft with over 120 square feet in floor area requires a building permit, as with other accessory structures.

3.12.4 Pigeon lofts may be located in the rear yard only and shall be at least 50 feet from adjacent habitable structures.

3.12.5 Pigeons shall be confined to the loft except when they are released for exercise, performance, training, or to return from areas outside the City of Gem Lake for the purpose of engaging in a race or returning from training flights.

3.12.6 All pigeons shall be fed within the confines of the loft on the premises on which the pigeons are housed.

3.12.7 All grains and food stored for the use of the pigeons on a licensed premises shall be kept in a rodent-proof container.

3.12.8 Pigeons must be banded in a way to identify each pigeon as kept by its owner.

3.12.9 All premises on which pigeons are kept or maintained shall be kept reasonably clean from filth, garbage, and any substances which attract rodents. The loft and its surroundings must be cleaned daily.

3.12.10 No one shall release pigeons to fly for exercise, training or competition within the City of Gem Lake except an owner of pigeons who is a member in good standing of an organized pigeon club, such as the American Racing Pigeon Union, Inc., the International Federation of Racing Pigeon Fanciers, the National Pigeon Association, the American Tippler Society, the International Roller Association, the Rare Breeds Pigeon

Club, or a local club which has rules that will help preserve the peace and tranquility of the neighborhood.

SECTION 4. AMENDMENT. Section 4 of Ordinance 69 is hereby amended to add the following sub-sections:

Section 4.2. Pigeon Keeping License. No person shall own, keep or harbor pigeons within the City of Gem Lake without first obtaining a license. Applicant shall complete an application form provided by the City. The application shall include, but not be limited to the following information: a site plan showing the location and size of the premises, and the location size and type of all pigeon lofts, and demonstration that said lofts will comply with City zoning requirements; a statement of the maximum number of pigeons to be kept on the premises at one time; and an agreement by the applicant that the premises may be inspected by the City at all reasonable times so as to assure compliance with the conditions outlined in Section 3.12. Only one license may be issued per property.

4.2.1 Duration of License; Fee. Each license issued hereunder shall expire one (1) year after issuance unless sooner revoked. A license must be renewed annually to continue the keeping of pigeons. The City Council shall set the annual fee for a license by ordinance with other City fees. Fees shall be paid at the time of the making of the application for license or renewal.

4.2.2 Number of Animals. The number of pigeons permitted to be kept under an approved license is calculated by dividing the volume of loft space by nine (minimum space per bird). The maximum number of pigeons allowed to any licensee, regardless of capacity, is 120 birds from March 1 to May 31, and 90 birds during the rest of the year.

4.2.3 Denial or Revocation. The pigeon-keeping license may be revoked, or renewal denied, if the licensee fails to comply with limits on number of pigeons or any of the conditions outlined in Section 3.12.

SECTION 5. Severability. Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid in any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part hereof, other than the part held to be invalid.

SECTION 6. Effective Date. This Ordinance shall take effect and be in force from and after its passage and publication.

Dated: 10-19, 2009


Robert Uzpen - Mayor


William Short - Clerk

Summary of Ordinance 110 approved by City Council and published in the White Bear Press on 10-28, 2009.