

ORDINANCE NO. 3791

AN ORDINANCE AMENDING CHAPTER 2 OF THE CITY CODE OF THE CITY OF OSWATOMIE, KANSAS AMENDING EXISTING SECTION 2-101 AND ADDING A NEW SECTION 2-105 TO PERMIT THE KEEPING OF CERTAIN FOWL IN THE CITY OF OSAWATOMIE, KANSAS

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

SECTION ONE: Section 2-101 of the City Code of the City of Osawatomie, Kansas is hereby amended to read as follows:

2-101. Definitions.

(l) "Fowl" means those animals in the zoological class aves, which can be generally defined as domestic birds commonly kept for the production of meat, eggs or feathers, which shall include, but not be limited to, chickens, ducks, geese, swans, turkeys, pigeons, pea fowl, guinea fowl, ostriches, emus, pheasant, quail, partridges, and grouse.

SECTION TWO: Article 1 of Chapter 2 of the City Code of the City of Osawatomie, Kansas is hereby amended by adding a new Section 2-105, to read as follows:

2-105 Exception; Fowl

The provisions of this article are not applicable to owners, keepers, or harborers of permitted fowl which may be maintained within the city limits, subject to the requirements of this section:

(a) Definitions.

(1) Permittee means a person to whom a permit has been issued by the city under this section.

(2) Chicken means an individual animal of the species *gallus domesticus*,

(3) Hen means the female.

(4) Rooster means a male.

(5) Drake means a male duck.

(6) "Fowl" means those animals in the zoological class aves, which can be generally defined as domestic birds commonly kept for the production of meat, eggs or feathers, which shall include, but not limited to, chickens, and ducks.

(b) Annual permit required. No person shall own, keep, or harbor a chicken within the

city limits without a permit issued pursuant to this section.

(c) **Locations permitted.** Only persons residing in zoning districts allowing for residential uses shall be eligible for a permit under this section. **Anyone wanting to raise chickens in the city limits shall: First have a signed letter of approval from the property owner; Second, they shall have a signed approval letter from ALL properties with a common physical border. These approval letters can be acquired from the Codes Department located at City Hall. These approval letters will be valid for the calendar year and SHALL BE RENEWED ANNUALLY.**

(1) Vacant lots shall not be utilized for accessory structures, to included coop's and or cages.

(d) **Number allowed.** A permittee shall not own, keep, or harbor more than five (5) hens, unless the permittee's dwelling is situated upon more than one (1) acre, in which case the permittee shall be allowed to own, keep, and harbor an additional five (5) hens for each full additional one (1) acre of property that is under the permittee's control and possession up to two (2) acres. No permittee shall be allowed to own, keep, or harbor more than fifteen (15) hens on any one parcel.

< 1 Acre	5 Chickens
1 - 2 Acres	10 Chickens
2+ Acres	15 Chickens

(e) **Roosters prohibited.** It shall be unlawful to own, keep, or harbor a rooster within the city limits. Ducks, geese, swans, turkeys, pigeons, pea fowl, guinea fowl, ostriches, emus and peacocks SHALL NOT BE PERMITTED. Per city code 2-116

(f) **Setbacks.** Coops and cages housing hens shall not be located within:

- (1) Twenty-five (25) feet from the door or window of any dwelling or occupied structure other than the permittee's dwelling;
- (2) Five (5) feet of a side or rear yard lot line;
- (3) In a front yard; or
- (4) Ten (10) feet of the permittee's principal dwelling.

(g) **Enclosures.** Per Osawatomie City Code 2-120, The coop shall be constructed in a similar style and building materials as the principal structure, and no part of such structure shall be located in the front yard setback. (NO GALVANIZED METAL ROOFING MATERIAL WILL BE ALLOWED). The coop shall be built to withstand all weather elements for the region. Hens shall

be provided with a covered, predator-proof coop or cage that is well ventilated and designed to be easily accessed for cleaning. The coop or cage shall allow at least two (2) square feet of space per hen. Any coop or cage exceeding 100 square feet in size shall be considered an accessory structure as defined in the Zoning Regulations and must meet all standards outlined therein. Hens shall have access to an outdoor enclosure (yard) that is adequately fenced to contain the birds on the permittee's property and to prevent predators from accessing the birds. All fowl must be kept in a fenced and secured area no larger than 625 square feet. **ALL coop design plans shall be approved by the Chief Building Official before any construction may begin.**

(h) **Sanitation.** The coop or cage, and the outdoor enclosure, must be kept in a sanitary condition and free from offensive odors. The coop or cage, and the outdoor enclosure, shall be cleaned at least once each week to prevent the accumulation of waste. If waste accumulates and a nuisance complaint is filed, the homeowner will get One warning to remedy the situation. One warning will be given per calendar year, if a Second complaint is received the permit will be nullified and the homeowner shall be required to rehome the fowl.

(i) **Sale of Consumables (eggs and/or meat).** ALL poultry/meat products must be processed in a USDA or KDA inspected facility and labeled as such. Per KDA regulations if you have 50 or fewer hens and all sales are direct to consumers, you are exempt from all requirements for selling eggs.

(1) **Slaughtering.** No person shall engage in the outdoor slaughtering of chickens. The remnants from slaughtering shall be properly disposed of, in accordance with applicable laws.

(j) **Animals at large.** No fowl will be allowed to run free. All fowl shall have clipped wings as to not allow for flight.

Any person found guilty of animal at large as defined herein shall be fined as follows: \$30.00 for the first offense within a twelve (12) month period; \$40.00 for the second offense within a twelve (12) month period; \$60.00 for the third offense within a twelve (12) month period; and \$100.00 for the fourth and subsequent offense(s) within a twelve (12) month period. The Municipal Judge shall have no authority to suspend the fine or any portion thereof of fine established by this Section. The fine shall be in addition to any applicable court costs or impoundment fees. The animal control officer, other City employee, or employees or custodians of an impoundment facility where such impounded is held shall not release an animal to an owner if the owner has failed to pay a fine or has failed to appear in municipal court for the adjudication of a violation of this section. Per city code 2-305 (e)

(k) Permit applications.

(1) Each applicant seeking to obtain a permit under this section shall apply for a permit in writing on such form as the Code Official may prescribe, and shall pay a non-refundable fee to the City according to our Fee Schedule. The initial permit fee shall be \$250.00. The annual renewal fee shall be \$25.00

(2) Each application for a permit shall be signed by the applicant, who shall be at least eighteen (18) years old, and who shall be in actual control or possession of the dwelling on the subject property. The application shall include or be accompanied by the following information:

(A) The name, address, telephone number, and date of birth of the applicant.

(B) A description of the location and size of the subject property.

(C) The number of hens the applicant proposes to keep on the subject property.

(D) A description and precise dimensions of the coop(s) or cage(s) and outdoor enclosure(s) to be maintained on the subject property, along with a description or depiction of the precise location(s) of these enclosures in relation to the property lines and adjacent properties.

(E) If the applicant proposes to keep hens in the yard of a multi-family dwelling, the applicant must include a signed statement from the owner(s) and all tenants of the multi-family dwelling, indicating their consent to the applicant's proposal for keeping hens on the premises.

(F) Such other information as is required by this chapter or reasonably required by the city to determine the applicant's eligibility and qualifications for a permit in accordance with the criteria, standards, and qualifications set forth in this section.

(l) Issuance or denial of permit.

(1) The City Clerk shall process each valid and administratively complete application for a permit within ten (10) business days.

(2) No permit shall be approved for any person ineligible pursuant to the provisions of this section.

(3) No permit shall be approved for any person who has been convicted, or who resides with any person in the subject property who has been convicted, of a crime related to maltreatment, mistreatment, neglect, or cruelty to any animal.

(m) Duration of initial permit; renewal.

(1) Any permit issued pursuant to this article shall be for a term of the remainder of the calendar year in which the permit is issued. A permit may be renewed by making a timely payment of an annual renewal fee located in the Fee Schedule, to the city on or

before December 31st of each calendar year. If the annual renewal fee is not made during the time provided herein, the permit shall expire on December 31st and a new application shall be required.

(2) A permit issued under this section may be revoked or temporarily suspended by the City Manager or his/her designee for any of the following reasons:

(A) Violation of or failure to comply with any provision of this section, or any other provision in this code or applicable city ordinances; or

(B) Fraud, misrepresentation, or false statement contained in the application for the permit.

(n) **Appeal.** Any person aggrieved by the Codes Official's denial of an initial permit application, or a decision of the City Manager or his/her designee to suspend or revoke a permit, shall have the right to appeal such decision to the City Council within ten (10) days after the notice of the action or decision has been mailed to the applicant or the permittee, as applicable. An appeal to the City Council shall be taken by filing with the City Clerk a written statement setting forth the grounds for the appeal. An appeal shall be considered by the City Council at the next regular meeting. The City Council may affirm, overrule, or modify the decision. Any person aggrieved by the City Council's decision on appeal may seek judicial review in a manner provided by law.

(o) **Inspection.** As a condition of the permit, the permittee agrees to the entry and inspection of any premises, building, enclosure, or other premises where the hens are kept or allowed to inhabit. Such inspection shall be conducted at reasonable times, with or without notice, by such city representatives designated by the city manager as being responsible for administration of this section.

(p) **Transferability.** A permit issued under this section shall not be assignable or transferable under any circumstances from one person to another person.

(q) **Penalty.** A violation of this section shall constitute a class C violation. Any person who shall be convicted in municipal court of violating any provision of this section shall be punished by a fine of not more than \$500.00. Each day that a violation occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation.

SECTION THREE: This ordinance shall take effect and be in force from and after its passage, approval, and publication in the Official City Newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, a majority being in favor thereof, this 28th day of January 2021,

APPROVED AND SIGNED by the Mayor

L. Mark Govea
Mayor

(SEAL)

ATTEST:

Tammy Seamands
City Clerk