

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JANUARY 16, 2018 AGENDA**

Subject:	Type:	Submitted By:
DISCUSSION — ALLOWING CHICKENS IN RESIDENTIAL DISTRICTS	RESOLUTION ORDINANCE ◆ RECEIVE/FILE	ANN BIRCH, COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

This item has been placed on the agenda at the direction of the City Council.

FISCAL IMPACT

N/A.

RECOMMENDATION

Discussion.

BACKGROUND

The City Council has been approached by two residents regarding the possibility of changing the City's Zoning Ordinance to allow the keeping of chickens in residential areas. In response, the City Council asked that this topic be placed on an upcoming agenda as a discussion item.

Section 7.14.02 of the City of La Vista Zoning Ordinance, currently reads, "No bird or fowl shall be allowed within residential or commercial zoning districts."

In preparation for this discussion, staff surveyed neighboring jurisdictions to determine what was permitted in each community. Bellevue, Gretna and Omaha allow the keeping of chickens under certain conditions. Papillion, Ralston and La Vista do not. Regulations for the cities that allow chickens are identified below.

Bellevue

Up to seven hens can be kept on one zoning lot in Bellevue (Ord. No. 3621, 9-12-2011):

Section 8.12. - Raising of Hens.

Raising of hens, subject to the following conditions:

8.2.01 Any person who keeps hens in the City of Bellevue or its zoning jurisdiction shall obtain a permit from the City prior to acquiring the hens. Application shall be made to the Permits and Inspections Division and the fee for the permit shall be as determined by Council resolution.

8.12.02 Permits expire and become invalid five (5) years after the date of issuance. A person who wishes to continue keeping hens shall have obtained a new permit on or before the expiration date of the previous permit. Application for a new permit shall be pursuant to the procedures and requirements that

are applicable at the time the person applies for a new permit to include a plot plan showing the building envelope in which the coop may be located.

Any person who, in any zoning district of the City of Bellevue, was keeping hens prior to March 1, 2011, may continue to keep hens; provided, that such person shall obtain the required permit not later than November 1, 2011, and comply with the requirements for keeping or housing hens on his or her property as set forth herein. Such permit application shall include an affidavit signed by the applicant stating that the applicant was keeping hens on his or her property on or before March 1, 2011.

Persons in any zoning district of the City of Bellevue may keep hens on his/her property for the sole purpose of participating in livestock exhibitions such as 4-H or similar programs upon approval of a permit and in accordance with the provisions as set forth herein.

8.12.03 A person who keeps or houses hens on his or her property shall comply with all of the following requirements:

- A. No more than 7 hens may be kept on any one zoning lot.
- B. The principal use of the property shall be a single-family dwelling.
- C. No person shall keep any rooster.
- D. No person shall slaughter any hens.
- E. The hens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Such covered enclosure or coop shall contain at least four square feet of floor area per hen, and the fenced enclosure shall provide at least ten square feet of open area per hen; no coop shall exceed 120 square feet of floor area or exceed 12 feet in height.
- F. A person shall not keep hens in any location on the property other than in the rear yard. For purposes of this section, "rear yard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the dwelling and extending to the side lot lines.
- g. No covered enclosure or fenced enclosure shall be located closer than 10 feet to any property line of an adjacent property.
- H. All enclosures for the keeping of hens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. A covered enclosure or fenced enclosure shall not be located closer than 40 feet to any residential structure on another person's property.
- I. All feed and other items associated with the keeping of hens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
- J. Eggs produced by permitted chickens may be sold by the permit holder.
- K. If the above requirements are not complied with, the City may revoke any permit granted under this section and/or initiate prosecution for a civil infraction violation.
- L. A person who has been issued a permit shall submit it for examination upon demand by any Police Officer or Code Enforcement Officer.

Gretna

Approved Ordinance 983 in 2010 to allow 4 chicken hens on 1 acre or less; and up to 10 chicken hens on more than 1 acre (amended by Ordinance 999 in 2011).

Section 3-303: Chickens; Permit Requirements; Restrictions

- A. It shall be unlawful for any person to permit or allow any chicken to run or fly at large within the corporate limits of the City.
- B. It shall be unlawful for any person to own, keep, harbor, or have under his/her/its care, custody or control any cock or rooster chicken two (2) months of age or older. The unlawful keeping or harboring of cocks or roosters is hereby declared to be a public nuisance.
- C. It shall be unlawful for any person to own, keep, harbor, or have under his/her/its care, custody or control any chicken without a valid permit issued by the City. The fee for such permit shall be established by the City. No permit shall be assignable or transferable either as to permittee, location or chickens.
- D. The requirements for the issuance of a permit by the City to own, keep, harbor, or have custody or control over a chicken are:
 1. No more than four (4) chickens shall be permitted on any lot of one (1) acre or less. No more than ten (10) chickens shall be permitted on any lot of more than one (1) acre.
 2. The chickens must be housed in a chicken facility and run approved by the City, such chicken facility and run to be maintained in compliance with all of the City's requirements as a condition of the permit. The requirements for the chicken facility and run include:
 - a. The chicken facility and run must be in good repair, capable of being maintained in a clean and sanitary condition, free of vermin, obnoxious smells and substances;
 - b. The chicken facility and run shall not constitute a nuisance or disturb neighboring residents due to noise, odor or threats to public health;
 - c. The chicken facility and run shall prevent chickens from roaming at large;
 - d. The run shall be constructed to include metal wire fencing anchored to the ground and a fully-enclosed roof or similar enclosure to prevent escape by chickens and entry by predators and general members of the public;
 - e. The chicken facility shall be constructed of durable material and the flooring of any chicken facility shall be of a waterproof hard-surfaced non-porous material;
 - f. The chicken facility shall provide not less than three (3) square feet per occupant chicken, and the run shall provide not more than eight (8) square feet per occupant chicken;
 - g. On lots less than one (1) acre in size, the chicken facility shall not exceed an overall height of eight (8) feet and overall size of thirty-two (32) square feet; on lots more than one (1) acre in size, the chicken facility shall not exceed an over height of ten (10) feet and on overall size of eighty (80) square feet;
 - h. The chicken facility and run shall be located so as to be a least thirty (30) feet from any dwelling, front yard or side yard, street, public sidewalk, public building, park or recreation area; and
 - i. The chicken facility and run shall comply with all applicable city building and zoning codes and must be consistent with the requirements of any land use regulation.
 3. Offal, manure and waste material shall not be permitted to accumulate nor be confined in any manner that is conducive to the breeding or attraction of flies, mosquitos or other noxious insects or in any manner that endangers the public health or safety. All permit applicants must provide a statement of the method in which offal, manure and waste material accumulating from the chickens will be sanitarilly disposed of at least once every seven (7) days;
 4. All grain, feed and feedstuffs intended for use as food for chickens shall be kept in tightly-fitted containers constructed to keep out vermin and wild animals; and
 5. The permit application shall be accompanied by adequate evidence, as determined by the City, that the applicant has notified all abutting property owners and residents of the property

lines of the property on which the chickens will be located, of the application. The City may consider resident objections in deciding whether to issue a permit under this section.

E. The slaughtering or destruction of chickens within the corporate limits shall be prohibited.

Omaha

Chapter 6 of the Municipal Code addresses animals; Article 10 regulates Livestock (poultry is defined as livestock). The Health Inspector determines if the lot size or conditions of the lot are adequate; there does not seem to be a minimum size requirement in the regulations).

Sec. 6-261. - Sanitary conditions of stalls, stables and yards.

It shall be unlawful for any owner to keep livestock in any place where the water, ventilation and food are not sufficient and wholesome for the preservation of their health and safe condition. Every owner, agent, lessee, tenant, or occupant of any stall, stable or enclosure in which any horse, cow or other animal may be kept, or any place in which any manure or solid or liquid discharge or excrement may collect or accumulate, shall at all times keep or cause to be kept such stall, stable or enclosure and the drainage, yards and appurtenances thereof in clean, healthful and wholesome condition, and no offensive odor shall be allowed to escape there from. The same shall be disinfected in accordance with the instructions of the health director.

Sec. 6-262. - Livestock running at large or trespassing on public or private grounds.

The herding or running at large of livestock or other animals upon the streets, avenues, parks, or public grounds within the city, or the picketing, lariatting or tying, or securing by rope or other means of any such animal or animals so that such animal can feed, walk, or trespass upon any public street, avenue, alley, park or public or private grounds within the city, or the running at large or the herding of such animals on any open ground within the city, is hereby prohibited and declared to be a nuisance; provided however, that the city council, with the concurrence of the mayor, may by resolution exempt from the provisions of this chapter such territory or grounds within the city limits as the herding or lariatting upon of such animals may not be considered to be a nuisance, giving notice thereof in the official paper of the city for three days.

Sec. 6-263. - Poultry to be enclosed.

It shall be unlawful for any person to allow poultry, chickens, hens, turkeys, ducks, geese, or other like fowl to be at large within the city, except in enclosed places on private property.

Sec. 6-266. - Required for keeping of livestock or poultry.

It shall be unlawful for any person to keep, maintain or harbor any horses, goats, sheep, swine, except mini-pigs as defined in article XI of this chapter, cattle or poultry within this city without first obtaining a permit to do so from the health department.

Sec. 6-267. - Application.

Any person desiring to obtain a permit required by the provisions of this division shall make application therefor in writing on a form furnished by the health department stating:

- (a) The name and location of the applicant.
- (b) The kind and number of animals or fowl to be kept.
- (c) The name of the person in charge of the animals or fowl, if different from the name and location of the applicant.
- (d) Such other information as the department may require.

Sec. 6-268. - Investigation.

Upon receipt of an application for a permit required by the provisions of this division, the health officer or his duly authorized representative shall investigate the premises and the manner in which the animals or fowl are to be kept.

Sec. 6-269. - Conditions for issuance.

A permit required by the provisions of this division shall be issued only if the location and the keeping of animals or fowl is, in the opinion of the health department, such as not to be a health hazard or nuisance to the surrounding neighborhood.

Sec. 6-270. - Revocation.

A permit issued under the provisions of this division may be revoked by the health department for the violation by the permittee of any provision of this division or any other applicable provision of this code, state law or city ordinance, rule or regulation.

Sec. 6-271. - Duration.

All permits issued under the provisions of this division shall be valid for a period of one year, running from January 1 to December 31.