

TO: Mayor Robinson and City Council

FROM: Jeffrey L. McCormick, Chief of Police

SUBJECT: Proposed Urban Chicken Ordinance

DATE: February 14, 2017

BACKGROUND

In June of 2016 the City Council requested that I research and prepare a proposed Ordinance that would allow for Chickens within the City. In doing the research and reviewing our existing Ordinance it appeared that the best approach would be to make a new section that was specific to urban chickens and slight amendments to sections 94.25, 94.26 and 152.236.

This process has been lengthy, because it impacts not just the animal section of our Code, but also the zoning section. This proposed Ordinance has gone through several revisions while it was reviewed by the Police Commission and the Planning Commission. At the February 7, 2017 Police Commission it was unanimously moved to bring this proposal to the City Council for consideration. The proposed Ordinance was reviewed by the City Attorney and the suggested language changes are incorporated into the final draft proposed Ordinance attached. The City Attorney advised that a public hearing is not required, but could be held if Council so choose to hold one. I have also attached the minutes from the Planning Commission meeting abbreviated to the discussion on the proposed Ordinance.

Also attached is the memo prepared for the Planning Commission and information on retail chicken coops.

REQUESTED COUNCIL ACTION

Request the City Council determine what action they would like to take on the proposed Ordinance to allow urban chickens within the City.

TO: Planning Commission

FROM: Jeffrey L. McCormick, Chief of Police

SUBJECT: Allowing Chickens in Residential Districts

DATE: November 10, 2016

BACKGROUND

The City Council directed that a draft ordinance be prepared that would permit Urban Chickens within the City of Cannon Falls. Currently any poultry or fowl is not permitted. After researching several existing ordinances and materials received from the League of Minnesota Cities the attached draft ordinance was prepared. At this point the draft has been reviewed by the Police Commission and also by the Planning Commission; however, there was not a quorum present when the Planning Commission met.

At this time I request that, the Planning Commission consider the following underlined provisions from the proposed ordinance and provide a vote to support or deny the proposed ordinance as it would impact the Planning and Zoning portion of the City Code.

- **(A) Permit Required.** A permit is required for any person seeking to keep Urban Chickens in the city of Cannon Falls as allowed by this Section. Coops and runs under this section will be exempt from and not counted towards the limits of detached accessory building as provided by § 152.236 of the City Code of Ordinances. An applicant must complete an application form provided by the city. Any amendment to an existing permit shall constitute a new application fee. The application shall include, but is not limited to, the following information:
- **(D) Conditions of Permit for Urban Chickens, (5) Any chicken coop or run shall be set back at least 10 feet from the property line and 50 feet from the principle structure on any adjacent lots in any direction.**

Once the draft proposed ordinance has been approved or denied by the different Commissions it will be reviewed by the City Attorney to determine what if any additional hearings or changes are recommended before the proposed ordinance is considered by the City Council.

I have attached the draft proposed ordinance and photos of coop/runs that can be purchased from retail outlets for your reference.

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Description

More Info

- Assembled - 78 in. x 30 in. x 41 in.
- Provides a safe and secure habitat for your chickens
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- Weight: Approximately: 90.39 pounds
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TEXT PROMOTIONS

**Cannon Falls Planning Commission
Regular Meeting
City Hall Council Chambers
November 14, 2016
6:30 p.m.**

MEMBERS PRESENT: Chair Daniel Pidd and Commissioners David Price, Bruce Hemmah, Jay Sjoblom, and Colleen Charnell

MEMBERS ABSENT: Commissioners Mike Daniels and Glenn Lundell were absent.

OTHERS PRESENT: Community Development Director Dave Maroney, City Administrator Ron Johnson, and Police Chief Jeffrey McCormick

7.D. Allowing Chickens in Residential Districts.

This item was discussed following discussion of Item 6C. Police Chief McCormick provided background information with regard to past discussions related to whether to allow chickens in residential areas of the community.

Chief McCormick presented the results of his research related to this topic and reviewed a draft ordinance in this regard. He stated that the Planning Commission is asked to review language indicating that “Coops and runs under this section will be exempt from and not counted towards the limits of detached accessory buildings.” Chief McCormick stated his understanding that the current limit for detached accessory buildings is two and that this could potentially increase the number of accessory buildings. Commissioner Hemmah asked whether approval from bordering neighbors would be required. Chief McCormick indicated that, from his research, some ordinances required approval by neighbors and some did not. He stated that the Police Commission recommended no requirement for neighbor approval, adding that the City Council could choose to add such a requirement. Commissioner Hemmah recommended approval of the permit application by all bordering neighbors.

Chair Pidd commented with regard to the amount of detail included in the draft ordinance to address potential concerns. He stated his preference for no neighbor approval requirement. He commented with regard to the requirement that a chicken coop or run have a 50-foot setback from the principal structure on any adjacent lot, stating that this requirement would exclude most property owners from raising chickens, based on average lot sizes. Chief McCormick provided rationale related to this requirement, stating that the intent of this requirement was not to exclude property owners from raising chickens. Chair Pidd commented with regard to interpretation of the ordinance language. Commissioner Hemmah expressed concerns related to chickens in an urban environment. Chief McCormick provided additional information related to chicken ownership. Commissioner Hemmah commented that some cities require applicants to attend a class on raising chickens. Chief McCormick discussed the process for review and approval of a potential ordinance.

Chief McCormick discussed the Planning Commission’s role in reviewing the previously referenced draft ordinance language along with the proposed 50-foot setback requirement. Chair Pidd stated his opinion that the draft ordinance language appears to thoroughly address the issues. He stated his opinion that there will not be large

numbers of permit requests. He discussed feedback he received from Babe O’Gorman in opposition to allowing urban chickens, stating that people should move to the country if they want to raise chickens. Chair Pidd commented that Cannon Falls is a farming community. He referenced challenges related to the 40-acre minimum requirement in Goodhue County. He discussed reasons that City residents may wish to raise chickens. He stated that he would be supportive of the ordinance.

Dallas Larson, 409 Ridgecrest Drive, Cannon Falls, commented that he worked for a similar-sized city in the metro area, Centerville, for about ten years. He described his experience with an urban chicken ordinance in that community, stating that there were very few applicants. He referenced nuisance provisions in the City Code to address concerns.

Commissioner Hemmah recommended the addition of a requirement for adjacent property owner approval along with a review of the permit every two or three years. Chair Pidd commented that the permit would need to be renewed annually. Chief McCormick provided additional information with regard to the permit approval and renewal process. Commissioner Hemmah recommended that bordering landowners sign off annually as well. Mr. Larson commented that neighbor approval was not a requirement in Centerville, as unrelated conflicts could impact the approval process. Chair Pidd expressed opposition to the neighbor approval requirement. Commissioners discussed other cities with chicken ordinances. Commissioner Hemmah stated his opinion that there are too many negatives. Commissioner Charnell commented that the purpose of the ordinance is to address these negatives. Commissioner Sjoblom commented that surrounding communities have approved chicken ordinances. He stated that passage of a chicken ordinance is of interest to other residents, adding that he is not pushing for this for his own benefit. Commissioner Hemmah commented with regard to the use of Police Department resources to resolve conflicts over chickens. He reiterated his recommendation for a requirement for annual approval by all bordering neighbors. Commissioner Sjoblom commented that most cities with chicken ordinances do not have this requirement.

Chair Pidd requested feedback from the perspective of the Police Department. Chief McCormick commented that the Police Department handles nuisance violations and has been working on protocols related to this policy. He commented that the draft ordinance mirrors the liquor license ordinance in terms of compliance and penalties for violations. Chair Pidd commented with regard to chicken disposal. Chief McCormick indicated that research is being conducted with regard to disposal of manure and waste products. Chair Pidd commented that chicken manure can be used as fertilizer.

Chief McCormick requested a Planning Commission recommendation to be forwarded to the City Council related to this matter.

Commissioners requested clarification of the proposed 50-foot setback requirement. Chief McCormick indicated that the closest point of the principal structure of the adjacent property would be utilized to make this determination. Chief McCormick commented that his research has shown polarized opinions related to chicken ordinances. When asked if the 50-foot setback is a standard requirement, Chief McCormick indicated that ordinances varied with regard to setbacks. He commented that the Police Commission expressed agreement with the 50-foot distance to help mitigate noise and dissipate odors. He reiterated that the topic of manure disposal is still being researched.

Commissioner Price asked how frequently compliance with the ordinance would be monitored. Chief McCormick stated that this would depend upon the number of permits issued, adding that chicken coops could be monitored by officers during the course of normal patrols. If something is noted, this would initiate a formal site visit and possible ordinance enforcement procedures.

Chair Pidd commented that conflicts could arise in the event that a new neighbor moves in next to a property owner with a valid permit to raise chickens. Commissioners commented with regard to potential property value impacts. Commissioner Price recommended documentation of communication with surrounding neighbors but not necessarily an approval requirement. Chief McCormick clarified that the sale of eggs from permitted residences is strictly prohibited. Mortgage and insurance considerations were discussed. Chief McCormick clarified that a chicken ordinance would carve out an exception to the existing ordinance prohibiting farm animals.

Chief McCormick requested a recommendation related to whether or not the Planning Commission would support moving forward with a chicken ordinance and reviewed the next steps in the process. Commissioner Hemmah agreed with having an ordinance on file. Commissioner Price stated his opinion that the draft ordinance is not restrictive enough and that the penalties should be greater in order to assure compliance. Chair Pidd stated his opinion that the draft ordinance is restrictive enough and that the proposed fines are adequate. A potential neighbor approval requirement was again discussed.

Chair Pidd commented that citizens have stopped by his home to discuss concerns only twice during the entire time he has served on the Planning Commission, with one of those occasions occurring last week related to this issue. Commissioner Price commented with regard to striking a balance between property owner rights and neighboring property owner rights.

Director Maroney commented with regard to feedback he received from absent Commissioners. He projected that if the two absent Commissioners were present, there would likely be a 4:3 vote against the draft ordinance, while Commissioners in attendance would likely vote 3:2 in favor of the draft ordinance. Commissioner Price reiterated his opinion that the proposed fines are not steep enough and that the setback requirements should be clearly defined. Commissioner Hemmah reiterated his recommendation for a neighbor approval process. Chair Pidd and Chief McCormick reviewed the setback requirements.

Director Maroney reviewed the conflict of interest policy, stating that if a Commissioner has property that is directly impacted by a Planning Commission recommendation, that Commissioner should identify the conflict and abstain from voting.

Commissioner Charnell commented with regard to property owner rights and consequences related to conflicts with neighbors.

Chief McCormick advised the Planning Commission that they could elect not to make a recommendation at this point. Chair Pidd indicated that this topic was placed on the agenda as a discussion item. He summarized Commissioner Hemmah's position with regard to neighbor approval. Chief McCormick reiterated that the City Council would

make the final decision related to what would or would not be included in a chicken ordinance. He commented with regard to direction that was provided by the Police Commission related to the draft ordinance language. Commissioner Price reiterated his position that he is in favor of an ordinance but one that is more restrictive and is associated with greater penalties.

Director Maroney suggested that Chief McCormick report to the City Council that the Planning Commission is generally in favor of a chicken ordinance but that some Commissioners are recommending additional restrictions and/or penalties.

Chief McCormick indicated that he is requesting feedback with regard to the two sections of the draft ordinance as discussed. Commissioners discussed ordinance language pertaining to defining chicken coops as accessory structures. The consensus of the Commissioners in attendance was that Commissioners were comfortable with an exemption for a chicken coop and that this should not count toward the limits for detached accessory structures. Commissioners discussed establishing an adequate setback from any adjacent applicant structure to ensure proper air flow.

Chief McCormick thanked Commissioners for their input.

**CITY OF CANNON FALLS
GOODHUE COUNTY, MINNESOTA**

ORDINANCE NUMBER _____

**AN ORDINANCE AMENDING TITLE IX, CHAPTER 94
OF THE CANNON FALLS CITY CODE CONCERNING ANIMALS**

THE CITY COUNCIL OF THE CITY OF CANNON FALLS, GOODHUE COUNTY,
MINNESOTA, ORDAINS:

SECTION 1. Section 94.25 of the Cannon Falls Code of Ordinances is hereby amended by amending the definition section to include:

URBAN CHICKEN. A domesticated female of the Species: Gallus domesticus, as identified by the U.S. Department of Agriculture, hereafter referred to as Urban Chicken or Chicken.

COOP. The structure for the keeping or housing of chickens as permitted by this Section.

RUN. A fully enclosed and covered area attached to a coop where chickens can roam unsupervised.

SECTION 2. Section 94.26 of the Cannon Falls Code of Ordinances is hereby amended by amending the keeping section to include:

(E) Urban Chickens are allowed only by permit as provided by Section 94.33 at an owner-occupied single family dwelling property located within a residential district that allows single family dwellings as permitted use.

SECTION 3. Section 94.33 of the Cannon Falls Code of Ordinances is hereby created to read as follows:

§ 94.33 URBAN CHICKENS PERMIT REQUIRED. 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 ordinance to permit the keeping and maintenance of chicken hens for residential egg production by permit. The chicken must be kept in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety and welfare of the community. The keeping of other poultry is prohibited.

(A) Permit Required. A permit is required for any person seeking to keep Urban Chickens in the city of Cannon Falls as allowed by this Section. Coops and runs under this section will be exempt from and not counted towards the limits of detached accessory building as provided by § 152.236 of the City Code of Ordinances. An applicant must complete an application form provided by the city. Any amendment to an existing permit shall constitute a new application fee. The application shall include, but is not limited to, the following information:

- (1) Written, dated and signed application from 100% of the owners of the property applying.
- (2) Attesting to meet the requirements that the property is an owner occupied single family dwelling located within a residential district that allows single family dwellings as permitted use.
- (3) A scaled drawing (Site Plan) showing the location, size and dimensions of all structures (coops, runs, etc.) and containment area for the urban chicken(s), including the distance of all structures and containment areas from the property lines and adjoining and neighboring structures.
- (4) The number of chickens to be kept on site, six (6) maximum.
- (5) Detailed feces and waste management plan.
- (6) An agreement by the applicant that the premises may be inspected by the city at any reasonable time to ensure compliance with all applicant conditions.

(B) Duration of Permit and Fee.

- (1) Each permit issued under this ordinance shall expire on December 31 in the year of issuance unless sooner revoked. A permit shall be renewed annually to continue the limited keeping of urban chickens.
- (2) The annual fee and/or renewal fee for a permit shall be paid at the time of the making of the application. Permit fees shall be in such amount as set forth in the City Fee Schedule approved annually by the City Council.
- (3) If permit is not approved, permit fees shall not be refunded.
- (4) Permit fees shall not be pro-rated.

(C) Permit Subject to Terms and Conditions of the Ordinance.

- (1) A permit is subject to all terms and conditions of this Section and any additional conditions deemed necessary by the City to protect health, safety and welfare.
- (2) The City may revoke a permit for failure to comply with the provisions of the Ordinance or any of the permit's conditions. Prior to revoking the permit, the City shall provide the owner with written notice of such violation and provide the owner with 48 hours to become compliant with this ordinance.

(D) Conditions of Permit for Urban Chickens

- (1) No person may keep a rooster or crowing hen.
- (2) Chickens must be provided a secure and well-ventilated roofed structure (“Chicken Coop”). Any chicken coop and run fencing must be consistent with building and zoning codes.
- (3) No chicken coop or run shall be constructed on any lot prior to the time of construction of the principal structure.
- (4) Chicken coops and runs shall not be in the front or side yard. The chicken coop and run must be located in the rear yard.
- (5) Any chicken coop or run shall be set back at least 10 feet from the property line and 50 feet from the principle structure on any adjacent lots, as measured in all directions. Measurement shall be a straight line distance between the closest points on each structure.
- (6) The chicken coop must be built in such a manner that it is not considered a nuisance to the neighboring properties.
- (7) The chicken coop must be built tall enough to ensure proper cleaning of the structure.
- (8) The chicken coop must be fully enclosed, wind and weatherproof, and have sufficient windows for natural light.
- (9) The chicken coop must have a heat source for the winter months.
- (10) The chicken coop must be constructed with materials that will prevent rodent and predator access.
- (11) Any coop or run shall be screened from view with a solid fence or landscaped buffer with a minimum height of four (4) feet.
- (12) All chicken coops must have a minimum two (2) square feet per chicken and the coop must not exceed a total of thirty (30) square feet (by outside dimensions) and must be elevated with a clear open space of at least 18 inches between the ground and the floor or framing of the coop and must not exceed 6 feet in total height. The coop’s floor, foundation or footings must be constructed in such a manner as to make the coop rodent-resistant. Fenced-in chicken runs must be a minimum of three (3) square feet per chicken with a maximum of thirty (30) square feet and fencing must not exceed six (6) feet in total height. Chicken runs may be enclosed with wood and/or woven wire materials, and may allow chickens to contact the ground. Chicken runs must have a protective overhead netting or be constructed under the coop to keep the chickens separated from other animals. The run must be constructed in such a manner as to make the run rodent-resistant
- (13) Chickens must be secured in a chicken coop from sunset to sunrise each day.
- (14) Chicken grains and feed must be stored in rodent-proof containers inside a structure.
- (15) No person may keep more than six (6) hens at one time.

- (16) The sale of chicks is strictly prohibited.
- (17) The sale of eggs from the permitted residence is strictly prohibited.
- (18) Chicken fighting is prohibited. Chickens shall not be raised or kept for fighting.
- (19) The slaughtering of chickens inside the city limits is prohibited.
- (20) The raising of chickens for breeding purposes is prohibited.
- (21) No person may allow chickens to roam freely.
- (22) No person may keep chickens inside a house or attached garage.
- (23) Dead chickens must be disposed of within 24 hours of death. Dead chickens must be disposed of according to the Minnesota Board of Animal Health rules, acceptable forms of chicken carcass disposal include off-site burial, off-site incineration or rendering, or off-site composting.
- (24) All premises on which the chickens are kept or maintained shall be kept clean from filth, garbage and any substances which will attract rodents. The roofed structure must be cleaned frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or cause odors detectible on another property.

(E) Pens and Yards. All chicken coops and chicken runs wherein chickens are kept or permitted to be shall be maintained in a clean and sanitary condition, devoid of all rodents and vermin, and free from objectionable odors. Such structures shall be maintained in good condition and shall be sufficient in strength and size to allow the particular chickens being kept to move about, but also able to prevent the escape of the chickens by climbing digging, chewing, manipulating of locks, gates or any other means if such restraint is necessary to prevent the creation of a nuisance. The City, upon complaint of any individual, shall inspect any such structure or premises and issue any such order as may be necessary to carry out the provisions hereof.

(F) Conditions and Inspection. No person who owns, controls, keeps, maintains or harbors hen chickens shall permit the premises where the hen chicken are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop and chicken run authorized under this section may be inspected at any reasonable time by a City of Cannon Falls Police Officer or other agent of the City as designated by the City Council.

(G) Public or Private Nuisance. No person shall allow any chicken under his/her ownership or control to disturb the peace and quiet of the City or to otherwise become a public or private nuisance so as to annoy, injure, or endanger the health, safety, comfort, or repose of the public. Nor shall the owner of chickens maintain them in a manner so as to create a nuisance to owners of property adjacent to or in close proximity with the property on which said animal is located.

Factors to be considered in deciding whether the keeping of chickens creates a public or private nuisance include, but are not limited to, the following;

- The condition of any structure or building wherein any chicken and other fowl is kept.
- The proximity of pens, fences and other structures to adjacent property lines.
- The general nature and characteristics of neighborhood.
- The number of chickens kept on any one parcel.
- The relative size of the parcel on which the chickens are kept.
- The type of chickens being kept.
- The extent to which neighboring property is protected from the effects of said chickens, e.g., solid fences, landscape screening, buffer areas, etc.
- The presence of objectionable odors and or noise.
- The relative danger the chicken would pose if exposed to the general public.

(H) Enforcement. City of Cannon Falls Police Officers or other agent of the City as designated by the City Council shall enforce the provisions of this Section.

(I) Impounding of Non-domesticated Animals, Chickens, and Other Fowl. Any non-domesticated animal, including chickens and other fowl, kept in violation of this Ordinance may be impounded by the City, and after being so impounded for five (5) days or more without being reclaimed by the owner may be destroyed or sold. Any person reclaiming such impounded animal shall pay the costs of impounding and keeping the same.

(I) Penalty for Non-Compliance. Failure to comply with these conditions may result in the removal of all chickens from the premises to include the revocation of the permit allowing.

(1) Violations of this section shall be subject to presumptive civil penalties as indicated in the matrix below. These penalties are presumed to be appropriate for every case; however, the Council may deviate in an individual case where the Council finds that there exist substantial reasons making it more appropriate to deviate. When deviating from these standards, the Council must provide written findings that support the penalty selected. Multiple violations occurring out of the same date shall be considered by the Council to determine if they will be considered to be one violation for civil penalty purposes or be considered as multiple violations, each processed according to the matrix.

Violations				
Type of violation	First	Second	Third	Fourth
94.33 D (1-23)	\$75	\$150	\$300	Revocation
Months within first violation	N/A	24	36	48

(2) Violations of this section may also be subject to criminal penalties for violation of the City Code.

- (3) Council will determine if a permit shall be revoked provided that the permit holder(s) has been afforded an opportunity for a hearing in the manner.
- (4) Any person whose permit is revoked shall, within ten (10) days thereafter, humanly dispose of all chickens being owned, kept or harbored by such person.
- (5) 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.
- (6) Any person whom is subject to revocation of an urban chicken permit shall be ineligible for the issuance of a permit for twenty-four (24) months from compliance with the revocation of the permit.

SECTION 4. Effective date. This ordinance shall be effective immediately upon its passage and publication according to law.

ADOPTED this ??th day of ????, 2017 by the City Council of the City of Cannon Falls.

Lyman M. Robinson, Mayor

Attest:

Ronald S. Johnson, City Administrator