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(resolution 16-01)

CHAPTER ELEVEN
ANIMALS AND FOWL

ARTICLE 1 – General Regulations

11.0101 Cruelty

No person may cruelly treat any animal in the City. Any person who beats, underfeeds, overloads or abandons any animal shall be deemed guilty of an offense.

11.0102 Dangerous Animal Defined

“Dangerous animal” as the term is used in this chapter means:

1. Any animal known to its owner or harborer to have a tendency or disposition to attack, bite, cause injury or to otherwise endanger the safety of or be a menace to human beings or domestic animals;
2. Any animal that attacks, bites, or injures a human being or another domestic animal one (1) or more times;
3. Any animal that in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places;
4. Any animal owned or harbored primarily or in part for purposes of fighting or any animal trained for fighting;
5. Any animal certified by a veterinarian, after observation, as posing a danger to human life or property if not kept in the manner required by this article; or
6. Any animal that has been determined to be dangerous by the city council or municipal court.

Notwithstanding the foregoing, no animal may be declared dangerous solely due to injury or damage sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or was teasing, abusing, or assaulting the animal.

No animal may be declared dangerous solely due to injury or damage sustained by a domestic animal that at the time such injury or damage was sustained by teasing, taunting, abusing or assaulting the animal. No animal may be declared dangerous solely due to the animal protecting or defending a human being from an attack or assault in the immediate vicinity of the animal. No animal may be deemed dangerous solely due to the animal protecting or defending its young offspring.

11.0103 Dangerous Animals

It is unlawful to permit any dangerous animal or vicious animal of any kind to run at large within the City. It is also unlawful to keep or harbor within the City any dangerous or vicious animal.

11.0104 Killing Dangerous Animals

The members of the police department or any other person in the City are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.

11.0105 Diseased Animals

No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at large, or to be exposed in any public place whereby the health of man or beast may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner thereof, except under the supervision of the chief of police or the health officer.

It is hereby made the duty of the health officer to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the state department of health is empowered to act.

11.0106 Housing

No person shall cause or allow any stable or place where any animal is or may be kept to be unclean.

11.0107 Keeping of Certain Animals Prohibited

It is unlawful to keep any live sheep, swine or pigs, cattle, chickens or other poultry, goats, or rabbits in the City. This section shall not apply to any person, partnership or corporation keeping or handling such animals under consignment in the course of regular business or to a licensed livestock auction market.

11.0108 Strays

It is unlawful to permit any cattle, horses, sheep, swine, goats or poultry to run at large in the City; and any such animal running at large in any public place in the City shall be impounded. It is also unlawful to picket or tie any such animal in any of the streets of the City for the purpose of grazing or feeding.

11.0109 Noises

It is unlawful to harbor or keep any animal which habitually disturbs the peace by loud noises at any time of the day or night.

11.0110 Penalty

Any person who violates the provisions of this article for which a specific penalty is not otherwise provided shall be guilty of an infraction for which the maximum penalty is a fine of five hundred dollars (\$500.00). The owner of any animal impounded pursuant to the provisions of this article shall pay all costs and charges assessed for such impoundment before such animal may be released to the owner.

ARTICLE 2 – Dogs and Cats

11.0201 License Required (Amendment 2024-1)

No dog or cat over six (6) months of age shall be permitted to be or remain in the City without being licensed as provided in this Article. It shall be the duty of the owner or keeper of any dog or cat kept within the City to have the dog or cat inoculated against rabies and proof thereof must be shown to the person issuing the license before a license may be issued.

11.0202 Licensing Procedure and Terms

All dogs and cats shall be registered as to sex, breed, name and addressees of owner and name of dog or cat. Licenses shall be issued by the city auditor or other authorized person on an annual basis. The person paying the license fee shall receive a receipt therefore and a license tag with which to mark the animal. It shall be the duty of the owner or keeper to cause such license tag or to be securely attached around the animal's neck and kept there at all times during the license period.

11.0203 License Fee

The license fee shall be \$5.00 annually for each neutered or spayed dog or cat and \$10.00 for each dog or cat that is not neutered or spayed. The owner of any spayed female dog shall present to the chief of police a letter or certificate signed by a licensed veterinarian to the effect that such dog has been spayed: or such other evidence as the license issuer may require.

11.0204 Limitation on Number of Dogs and Cats

No person shall harbor or keep more than three dogs or cats or combination of dogs or cats upon premises within the city which are owned or controlled by him, unless a permit is obtained pursuant to the subsections which follow.

The City may grant a person a permit to harbor or keep more than three dogs or cats, or combination of dogs or cats. The permit shall specify the number of dogs or cats, or combination of dogs or cats, which the permittee may

harbor or keep, subject to such limitations and conditions as the board may impose. The permit shall attach to the premises to which it relates and shall be personal to the permittee and may not be transferred.

In determining whether a permit shall issue or not, the City shall consider:

1. The area in square footage of the premises to which the permit relates
2. The proposed facilities to house the animals and to provide them with an exercise area
3. The proposed sanitation measures the permittee will employ
4. The size and customary habits of each type or breed of animal sought to be kept
5. The proximity, type, and configuration of residences surrounding the place where the animals are to be housed
6. The past history of the applicant with regard to violations of this chapter and generally with regard to providing sanitary and humane care for the animals
7. Any other factor reasonably likely to affect adversely the persons who live, work, visit or transact business in close proximity to the proposed permit area

11.0205 Restraint Requirement

No person having the custody or control of any dog or cat shall permit the same to be within or upon any unfenced area or lot abutting a street, sidewalk, public park, public place, or any other private land without being effectively restrained by a chain, rope, cord, or other such restrictive restraint, including a properly operating electronic collar, effectively preventing such animal from reaching any street, sidewalk, public park, public place, or any private land belonging to another.

11.0206 Pet Solid Waste – Collection and Disposal

Every owner or person having control of a dog or cat shall collect and properly dispose of the dog's or cat's solid waste when eliminated. It is an offense subject to a fee of twenty-five dollars (\$25.00) to allow a dog or cat to eliminate solid waste on another's private property without permission, or upon public streets, sidewalks, parks, or other public areas, and fail to properly collect and dispose of such waste.

11.0207 Dog or Cat Running at Large Prohibited

It shall be unlawful for the owner or keeper of any dog or cat to permit the same to run at large in the City at any time. A dog or cat shall not be considered running at large if attended and on a leash or when in the confines of the owner's or keeper's premises.

11.0208 Impounding (Amendment 2023-3; 10/4/2023)

- a. Unrestrained dogs or cats may be taken by a licensed law enforcement officer, city employee, or city elected representative and impounded and thereafter confined in a humane manner. If by a permit tag or by other means the owner can be identified, the licensed law enforcement officer, city employee, or city elected representative shall immediately upon impoundment notify the owner by telephone or mail of the impoundment of the animal. Licensed dogs or cats not claimed by their owners within seven (7) days shall be humanely destroyed, or offered to the public for adoption. Impounded, unlicensed dogs or cats shall be kept there for seven (7) days and, unless reclaimed by their owners, shall be humanely destroyed, or offered to the public for adoption. If the dog or cat is sick or injured that it is inhumane to allow the animal to remain in that condition, and they have been unsuccessful for twenty-four (24) hours to contact or locate the owner, the dog or cat shall be humanely destroyed. Any dog or cat that appears to be infected with rabies or mange shall be destroyed regardless of ability to contact or locate the owner.
- b. If the impounded animal is a dog or cat which has been impounded previously, it shall not be released unless it has been spayed or neutered. If the lack of spaying or neutering prohibits the release of the animal, the person seeking its release may arrange for its spaying or neutering, and if such arrangements are made within five (5) days, the time allowed for redemption of the animal shall be extended accordingly.

11.0209 Fee for Redemption of Impounded Animals (Amendment 2023-3; 10/4/2023)

- a. In any case where an animal is impounded, the owner or keeper claiming the animal shall pay to the city the license fee for the animal, if any, plus an impounding fee and a fee for the care and maintenance of the animal while in custody before the animal is released, as established by the city council.
- b. The impounding fee for the first impounding shall be seventy-five dollars (\$75.00) for a licensed animal and one hundred seventy-five (\$175.00) for an unlicensed animal.
- c. In the event an animal is impounded a second time, the impounding fee shall be one hundred fifty dollars (\$150.00) for a licensed animal and two hundred fifty dollars (\$250.00) for an unlicensed animal.
- d. In the event an animal is impounded a third or subsequent time, the impounding fee shall be two hundred twenty-five dollars (\$225.00) for a licensed animal and three hundred twenty-five (\$325.00) for an unlicensed animal.
- e. In addition to the above impounding fee, a daily fee of twenty dollars (\$20.00) shall be charged for each day or fraction thereof that the animal is impounded.
- f. There shall be a fee of twenty dollars (\$20.00) for adopting an animal. Anyone adopting an animal who lives within McKenzie County, shall license the animal, and such animal shall not be released until it is spayed or neutered. If the lack of spaying or neutering prohibits the release of the animal, the person seeking its release may arrange for its spaying or neutering, and if such arrangements are made within five (5) days, the time allowed for redemption of the animal shall be extended accordingly.

11.0210 Return to Owner if Known

Notwithstanding the provisions of Section 11.0207, if a dog or cat is found at large and its owner can be identified and located, such dog or cat need not be impounded but may, instead, be taken to the owner. In such case the policeman or other officer may proceed against the owner or keeper for violation of this article.

11.0211 Noisy Dog or Cat Prohibited

It shall be unlawful to keep or harbor within the City any dog or cat that disturbs the peace by habitually howling, barking, whining, meowing or making other disagreeable noise. Any person wishing to file a complaint shall be required to give his name and address and sign a complaint.

11.0212 Nuisance – When

Any licensed dog or cat, any dog or cat running at large, any dog or cat disturbing the peace, or any dog or cat molesting passersby, chasing vehicles or trespassing upon private property is hereby declared to be a nuisance.

11.0213 Penalty

Any person violating any provision of this article shall be guilty of an infraction and be fined not to exceed five hundred dollars (\$500.00).

ARTICLE 3 – Chickens **(amended 8/02/2017 ord. 107)**

11.0301 Definitions

1. Brooding - the period of chicken growth when supplemental heat must be provided, due to the birds inability to generate enough body heat on its own
2. Chicken - a domesticated bird that serves as a source of eggs or meat that has a trinomial or scientific name of Gallus gallus domesticus. No other genus or species of fowl is allowed.
3. Coop - the structure for keeping or housing the chickens permitted by the ordinance
4. Hen - a female chicken
5. Officer - any person designated to enforce the ordinance
6. Rooster - a male chicken
7. Run - a fully enclosed and covered area attached to a coop where chickens can roam unsupervised

11.0302 Purpose of Ordinance

It is recognized the ability to cultivate one's own food is a sustainable activity that can also be a rewarding past time. Therefore, it the purpose and intent of this ordinance to permit the keeping and maintenance of chickens for egg and meat sources in a clean and sanitary manner that is not a nuisance to or detrimental to public health, safety and welfare of the community.

11.0303 Investigation and Enforcement

Officers designated by the city shall have authority in the investigation and enforcement of this article, and no person shall interfere with, hinder or molest any such officer in the exercise of such powers. The officer 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 article.

11.0304 Limitations for each single dwelling or residential unit

1. No more than six (6) chickens shall be housed or kept on any one (1) residential lot in any areas of the city zones for single dwelling residential with a permit as out lined below.
2. Roosters are prohibited.
3. Slaughtering of chickens inside city limits property is prohibited.
4. A separate coop is required to house chickens. Coops must be constructed and maintained to meet the following minimum standards:
 - a. Located in the rear or side yard. Coops shall not be located on the street side.
 - b. Setback at least ten (10) feet from the rear or side property lines.
 - c. Interior floor space-four (4) square feet per chicken if a run is provided. If no run is provided, then six (6) square feet per chicken.
 - d. Interior height- six feet to allow access for cleaning and maintenance.
 - e. Doors – one (1) standard door to allow humans to access the coop and one (1) for the chickens (If above ground level, must also supply a stable ramp).
 - f. Windows – one (1) square foot window per ten (10) square feet of floor space. Windows must open to offer ventilation.
 - g. Climate control – adequate ventilation and/or insulation to maintain the coop temperature livable for the chickens
 - h. Nest boxes – one (1) box for every three (3) chickens
 - i. Roosts – one and on-half (1 ½) inch diameter or greater, located eighteen inches from the wall and two (2) to three (3) inches above the floor
 - j. Rodent proof - coop construction and materials must be adequate to prevent access by rodents
 - k. Coops shall be constructed and maintained in a workmanlike manner

11.0305 Runs

Runs are required the coop has a floor area smaller than six (6) square feet per chicken. Runs must be constructed and maintained to meet the following minimum standards:

1. Location: rear or side yard. Runs shall not be located on the street side.
2. Size: Six (6) square feet per chicken. If the coop is elevated two feet so chickens can access space beneath, that area may count as a portion of the minimum run footprint.
3. Height: Six (6) feet in height to allow access for cleaning and maintenance.
4. Gate: One gate to allow human access to the run.
5. Cover: adequate to keep chickens in and predators out. The run shall be enclosed on all sides.

6. Substrate: Composed of material that can be easily raked or regularly replaced to reduce odor and flies.

11.0306

Chickens shall not be housed in a residential house or an attached or detached garage except for brooding purposes only.

11.0307

All premises on which chickens are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents. The coop, run and their surroundings must be frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes unsanitary condition or causes odors detectible on another property. Failure to comply with these conditions may result in the city removing the chickens from the premises and/or revoking the permit.

11.0308

All grain and food stored for the use of the chickens on a premise with a chicken permit shall be kept in a rodent proof container.

11.0309

Chickens shall not be kept in such a manner as to constitute a nuisance to the occupants of any adjacent property.

11.0310

Dead chickens must be disposed of as soon as possible after death, usually within forty eight to seventy two hours. Legal forms of chicken carcass disposal include burial, off-site incineration or rendering, or composting.

11.0311 Application

Any person desiring a permit required under the provisions of this article shall make written application to the city upon the requested form prescribed by and containing such information as required by the City. The application shall be submitted to planning and zoning. Among other things, the application shall contain the following information:

1. A description of real property upon which it is desired to keep the chickens.
2. The breed and number of chickens to be maintained on the property.
3. A site plan of the property showing the location and size of the proposed chicken coop and run, setbacks from the coop to the property lines and surrounding buildings (including houses and building on adjacent lots), and the location, style, and heights of the fencing proposed to contain the chickens in the run. Portable coops and cages are allowed but portable locations must be included with the site plan.
4. 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 the provisions of this chapter and grounds for cancellation of the permit.
5. Such other and further information as maybe required by the city.

11.0312 Permit Conditions

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 officer 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 officer for failure to conform to such restrictions,

limitation, prohibitions. Such modification shall be effective 10 days following written notices thereof by certified mail to the person or persons keeping or maintaining such chickens.

11.0313 Violations

Resident must abate any nuisance within 10 days of being given written notice of the nuisance. The written notice shall be served by regular mail. Unsanitary conditions, unreasonable noise or odors, or annoyance caused by keeping chickens shall be considered a nuisance.

Any person violating any section of this ordinance shall be deemed guilty of an infraction and may be fined up to \$500 for each violation. Each day the nuisance exists after the notice shall constitute a separate infraction.

If any person is found guilty by the 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 1 year.

Any person violating any conditions of this permit shall reimburse the city of all cost borne by the city enforce the conditions of the permit including but not limited to the pickup and impounding of chickens.

11.0314 Permit Required

No person shall (without first obtaining a permit in writing from the city) own, keep, harbor or have custody of any live chicken.

11.0315 Fees; issuance

For each residential site, the fee for a permit is as may be imposed, set, established and fixed by the city council from time to time. The initial fee at the time this ordinance is passed is \$100.

11.0316 Term of License

The permit period under this section shall expire 5 years from the date the permit is issued.

11.0317 Revocation

The city may revoke any permit issued under this ordinance if the person holding the permit refuses or fails to comply with this ordinance, with any regulations promulgated by the city council pursuant to this Ordinance, 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 humanely dispose of all chickens being owned, kept or harbored by such person. No part of the permit fee shall be refunded.

