

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b>	May 7, 2018
	<b>Agenda Item No.</b>	<b>38</b>
	<b>Roll Call No.</b>	<b><u>18-793</u></b>
	<b>Communication No.</b>	<b><u>18-241</u></b>
	<b>Submitted by:</b>	<b>Scott E. Sanders, City Manager</b>

**AGENDA HEADING:**

Amendment to Section 18 of the City of Des Moines Ordinance as it relates to agricultural nondomestic animals (fowl).

**SYNOPSIS:**

Recommend approval of amendments to Section 18 of the City of Des Moines Ordinance as it relates to agricultural nondomestic animals (fowl) including definitions, the number of and what fowl is allowed, setbacks, and shelters.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

The following definitions under 18-1 are being recommended as amendments:

Chicken means a member of the subspecies of Gallus domesticus, domesticated chicken.

Coop means a cage, enclosure or building used for housing and protecting fowl from weather and predators.

Feeder means a device or apparatus for supplying food.

Fowl means gallinaceous; or relating to an order (Gallus domesticus/Galliformes) of heavy-bodied largely terrestrial birds including the pheasants, turkeys, grouse, and the common domestic chicken.

Livestock means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.

Rooster means an adult male domestic chicken.

The following amendments under 18-4 regarding agricultural nondomestic animals are being recommended:

(c) Not more than two such animals may be kept on an acreage, except that one additional animal may be added for each additional acre over one acre. An exception is made for fowl, which may be 25 shall not exceed 30 in number except that no rooster shall be allowed on any property. Fowl except roosters per acre and 50 for each additional acre may be kept on a lot zoned as a single-family residence as the primary use. No fowl shall be allowed on townhouse, duplex, condominium or manufactured housing park lots. A tenant must obtain the landlords written permission to install a coop.

(f) Subsections (a), (b), and (d) of this section shall not be deemed to prohibit the keeping or maintaining of any animal which was legally kept upon any land on June 25, 2009, provided no additional animals to those legally kept upon such date shall be placed upon any land on or after June 26, 2009, and any animal which dies, is removed or ceases to be kept or maintained under this section may not be replaced as long as the total number of animals kept exceeds the number allowable under this Code. In order to establish a right to keep animals under this subsection, a person having control over land must make application to the community development department on or before June 30, 2010, upon forms to be provided by the department. To establish that animals were legally kept on land on June 25, 2009, the community development director or the director's designee or the chief humane officer or designee may make reasonable requests, including a request to inspect land, to verify any claim of exemption.

(g) Subsection (f) of this section notwithstanding, the keeping of animals for commercial or agricultural purposes which was lawful on June 25, 2009, may continue so long as the commercial or agricultural use is not discontinued. In order to establish a right to keep animals for agricultural or commercial purposes under this subsection, a person having control of the land must make application to the community development department on or before June 30, 2010, upon forms to be provided by the department. To establish that animals were legally kept for agricultural or commercial purposes on June 25, 2009, the community development director or the director's designee or the chief humane officer or designee may make reasonable requests, including a request to inspect land, to verify the claim of exemption.

(h) Small caged animals and fowl such as falcons, pigeons, pheasants, quail, chickens, ducks, geese, rabbits, ferrets and other small animals and fowl which are of such type and nature that state and national associations exist establishing norms for breeding, confining and rearing shall be allowed, provided that:

~~(1) Cages, hutches, coops, cotes, lofts or other confinement shall be at least 25 feet away from any neighboring residence; such enclosures shall be of sufficient size to house the number of animals or fowl permitted by state or national standards. Shelters, pens, coops, or cages shall not be located within the required building setbacks and shall be a minimum of twenty-five (25) feet away from any neighboring residential dwelling or commercial building.~~

~~(2) The area is maintained free of odors, insects and rodents, and disturbing noises such as crowing, eackling and gobbling, causing no safety or health hazards to the general public or interfering with the enjoyment of life and property by any neighboring resident. Shelters, pens, coops, or cages shall be kept in a sanitary condition and must be cleaned on a regular basis to prevent odors perceptible at the property boundaries as detected by a reasonable person. All feed for the animals shall be kept in a secure container or location to prevent the attraction of rodents and/or other animals.~~

~~(3) Animals and fowl included in this subsection shall be fed in the confines of their enclosures; all grains and food shall be stored in rodenproof containers. Fowl shall be provided with a covered and secure shelter that is thoroughly ventilated, provides adequate sun, shade, and protection from the elements and is designed to be easily accessed and cleaned. Such structures shall not be in the front or side yards.~~

~~(4) On any parcel of land less than an acre, such animals shall be limited to two species and 30 in total number, unless by state and national standards more are permitted.~~

~~(5) On any parcel of land of one acre or more, such animals shall be limited to six species and 50 in total number for the first acre and 50 for each additional acre, unless by state and national standards more are permitted.~~

~~(6) No animal or fowl under this subsection may be maintained, enclosed or fenced in the front yard of a dwelling or within a dwelling.~~

The following amendments under Section 18-7 regarding construction and cleaning of buildings for housing animals on acreage are being recommended:

(a) Any building or part thereof used for housing animals permitted on an acreage shall be well ventilated, and its walls, floors and ceilings shall be tight and of such material, satisfactory to the environmental health officer and building official, and/or chief humane officer or designee that they may be readily washed, disinfected and painted.

~~(b) All enclosed yards, barns, sheds, or other structures used to house animals as permitted under this article shall be maintained, clean, free from manure, insects and offensive odors at all times.~~ Shelters, pens, coops, cages, barns, sheds, enclosed yards or other structures used to house animals as permitted under this article shall be kept in a sanitary condition and must be cleaned on a regular basis to prevent odors perceptible at the property boundaries as detected by a reasonable person. All feed for animals shall be kept in a secure container or location to prevent the attraction of rodents and/or other animals.

The following amendments under Section 18-136 Types permitted are being recommended:

The following animals may be owned per property under the following conditions:

~~(c) Domestic poultry and fowl, that is poultry and fowl ordinarily raised for production of eggs or meat, not to exceed two in number considered together, maintained at all times in a pen and/or coop.~~ Up to thirty (30) fowl may be kept on a lot zoned as a single-family residence as the primary use. No fowl shall be allowed on townhouse, duplex, condominium or manufactured housing park lots. A tenant must obtain the landlords written permission to install a coop.

~~(d) Vietnamese potbellied pigs, Asian potbellied pigs or potbellied pigs not to exceed three in number of the types considered together.~~ Potbellied pigs, not to exceed three in number.

(f) The young produced by ~~any pets~~ animals permitted herein may be maintained with the parent animals for a period of approximately eight weeks but in no case longer than ten weeks.

The following amendments to 18-137 regarding Enclosures is recommended:

~~Any enclosure pen, coop or hutch in which pets are maintained shall be cleaned at a minimum of every other day or more often if deemed advisable or necessary by a health officer. They shall be located at a minimum of 25 feet from a neighboring dwelling, as the term "dwelling" is defined in section 134-3 of this Code. No animal may be enclosed or fenced in the front yard of a dwelling.~~

(a) Fowl shall be provided with a covered secure shelter that is thoroughly ventilated, provides adequate; sun, shade, protection from the elements and is designed to be easily accessed and cleaned. Such structures shall not be located in front or side yards.

(b) Shelters, pens, coops, or cages shall not be located within the required building setbacks and shall be a minimum of twenty-five (25) feet away from any neighboring residential dwelling or commercial building.

(c) Shelters, pens, coops, or cages shall be kept in a sanitary condition and must be cleaned on a regular basis to prevent odors perceptible at the property boundaries as detected by a reasonable person. All feed for the animals shall be kept in a secure container or location to prevent the attraction of rodents and/or other animals.

(d) No person shall store, stockpile or permit any accumulation of animal litter and waste in any manner whatsoever, which, due to odor, attraction of flies and/or other pests, or for any reason diminishes the rights and privileges of adjacent property owners to enjoy reasonable use of their property.

The following amendment to Sec. 18-138 regarding the title is recommended:

Sec. 18-138. Indoor ~~pets~~ animals.

**PREVIOUS COUNCIL ACTION(S): NONE**

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Second and third reading of the ordinances.

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