



Roll Call Number

Agenda Item Number

38

Date May 7, 2018

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 18-1, 18-4, 18-7, 18-136, 18-137 and 18-138, relating to fowl",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

Douglas P. Philip  
Assistant City Attorney

(First of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED		APPROVED		

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 18-1, 18-4, 18-7, 18-136, 18-137 and 18-138, relating to fowl.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Sections 18-1, 18-4, 18-7, 18-136, 18-137 and 18-138, relating to fowl, as follows:

**Sec. 18-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Acreage* means a plot of land within the city's corporate limits equal to or greater than an acre.

*Adequate shelter* means a protective covering which is impervious to moisture and other adverse weather conditions, and includes a door or flap allowing the animal constant access, and which is maintained in a sanitary manner.

*Animal shelter* means the facility owned by the City of Des Moines used for animal control purposes.

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

*Chief humane officer* means the city employee designated by the city manager to exercise the authority of the chief human officer under this chapter, and such employee's designee.

*Chief of police* means the legally designated chief of the police department and his or her designee.

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

*Contractor* means a nonprofit corporation that provides animal care, adoption and cremation services, and that has contracted with the City of Des Moines to provide animal shelter services.

*Dead animal* includes all dead animals, skinned or unskinned, undressed, unslaughtered hogs, cattle, and other animals which have died from disease, accident, or cause other than slaughter for use as food, in accordance with the sanitary laws regulating such act.

*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.

Owner means any person owning, keeping or harboring an animal.

Rooster means an adult male domestic chicken.

**Cross reference(s)**--Definitions generally, § 1-2.

#### **Sec. 18-4. Agricultural nondomestic animals and exotic animals.**

- (a) No horse, cow, calf, swine, sheep, goat, llama, camel, ostrich, peacock, chicken, goose, duck or other agricultural animal or any nondomestic animal shall be kept within the city's corporate limits on any lot or parcel of land unless such parcel of land shall be an acreage, except as provided under subsections (c), (f), (g) and (h) of this section and article IV of this chapter. The area where any such animal is kept on the acreage shall be 75 feet from any neighboring residential dwelling and not located in a front yard area. The keeping of bees in hives is exempted from this section.
- (b) No such animal shall be kept on the same lot or premises with any multiple dwelling.
- (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.
- (d) Any animal kept on an acreage shall be kept for personal use only and not for commercial use except as provided in subsections (f) and (g) of this section.
- (e) No person having the care of any cow or cattle of any kind, horse, swine, goat or other animal, domestic or nondomestic, shall permit the animal to run at large as defined in subsection 18-55(a) of this chapter within the corporate limits.
- (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, cackling 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 rodentproof 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.~~
  - (7) The young produced by any animals or fowl of this nature may be maintained with the parent animals for a period of approximately eight weeks but in no case more than ten weeks, unless by state and national standards a longer period is required.
- (i) Nothing in subsection (f), (g) or (h) of this section shall be construed as abrogating any requirement in this Code which requires the licensing or permitting of any animal or the keeping thereof.
- (j) Except as provided in subsection (f), (g) or (h) of this section, this article shall apply to all persons harboring, any animal in a manner not consistent with this article.
- (k) Animals inclusive of fowl maintained for educational purposes by schools, day care centers, vocational agricultural programs and for other public education programs; animals

inclusive of fowl maintained for display at Blank Park Zoo, state and county fairs, science center, circuses; primates maintained for research or educational programs by the Iowa Primate Learning Sanctuary; and the bringing in of such animals and fowl on a temporary basis for exhibits or shows are exempt from this section, provided all other requirements under this Code are met.

- (1) Any person presently owning or maintaining animals that are not in compliance with this chapter may make application to the city manager or the manager's designee for a variance, provided such application meets the following conditions:

- (1) The keeping of such animals has been of long-standing duration, that is, in excess of three years, or is presently under commercial contract.
- (2) The area where such animals are maintained is so located as to cause no safety or health hazards to the general public or interferes with the enjoyment of life and property by any neighboring resident.

Any such variance is conditioned upon all circumstances for the granting of the variance remaining constant. The city manager or the manager's designee may revoke the variance at any time after notice and opportunity for comment by the applicant, if it is determined that due to changed circumstances, the presence of the animals is causing a safety or health hazard to the general public or interferes with the enjoyment of life and property by any neighboring resident.

#### **Sec. 18-7. Construction and cleaning of buildings for housing animals on acreage.**

- (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.

**Cross reference(s)**--Buildings and building regulations, ch. 26.

#### **Sec. 18-136. Types permitted.**

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

- (1) A total of 6 cats and dogs, not more than 3 of which may be dogs, and which are owned and maintained in compliance with the sections of this chapter relating to such animals.
- (2) Rabbits not to exceed three in number, maintained in a hutch or other type of enclosure.
- (3) ~~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.

- (4) ~~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.
- (5) Pygmy goats, not to exceed three in number.
- (6) 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.
- (7) A waiver of the three-dog limit set in subsection (1) of this section may be granted by the City Clerk, or his/her designee, to allow for one additional dog under the following conditions:
  - a. The dog's full-grown weight is no more than 20 pounds as certified to by a veterinarian,
  - b. The owner provides a current rabies vaccination certificate for the dog,
  - c. The owner provides proof the dog has been spayed or neutered, and
  - d. No more than 2 cats are owned on the property subject to the waiver.

#### **Sec. 18-137. Enclosures.**

~~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.~~

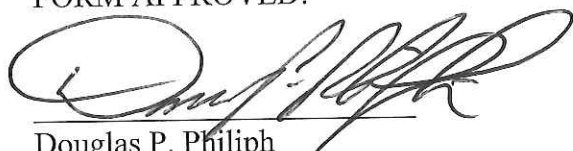
- (a) Fowl shall be provided with a covered secure shelter that is thoroughly ventilated, provides adequate; sun, shade, protection from the elements and is designed to be easily accessed and cleaned. Such structures shall not be located in front or side yards.
- (b) Shelters, pens, coops, or cages shall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

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

Gerbils, hamsters, guinea pigs, mice, birds, snakes and other similar animals normally maintained as pets in an enclosure inside a dwelling are not proscribed by this article unless provided otherwise by this Code.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

A handwritten signature in black ink, appearing to read "Douglas P. Philip", written over a horizontal line.

Douglas P. Philip  
Assistant City Attorney