

ORDINANCE NO. 7307

ORDINANCE CREATING CHAPTER 6.15 ENTITLED “KEEPING OF POULTRY” OF THE CODE OF ORDINANCES OF THE CITY OF EAU CLAIRE

THE CITY COUNCIL OF THE CITY OF EAU CLAIRE DO ORDAIN AS FOLLOWS:

SECTION 1. That the “Ordinance creating Chapter 6.15, entitled “Keeping of Poultry” of the Code of Ordinances of the City of Eau Claire having been placed on file and open to public inspection in the office of the City Clerk for a period exceeding 2 weeks, in accordance with the procedure provided under Wis. Stats. s. 66.0103 and Eau Claire General Ordinance s. 1.04.110, is hereby adopted.

SECTION 2. That this ordinance shall take effect upon passage and publication as required by law.

(SEAL) Council Vice President/Acting President
Andrew F. Werthmann

(SEAL) City Manager Dale Peters

(ATTESTED) City Clerk Carrie L. Riepl

First Reading	November 13, 2018
Final Reading	November 27, 2018
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ORDINANCE CREATING CHAPTER 6.15 ENTITLED “KEEPING OF POULTRY” OF THE CODE OF ORDINANCES OF THE CITY OF EAU CLAIRE.

THE CITY COUNCIL OF THE CITY OF EAU CLAIRE DO ORDAIN AS FOLLOWS:

SECTION 1. *That Chapter 6.15, entitled “Keeping of Poultry,” is hereby created to read as follows:*

Chapter 6.15

KEEPING OF POULTRY

Sections:

6.15.010 Purpose.

6.15.020 Definitions.

6.15.030 License Required.

6.15.040 Property Requirements and Coop Design.

6.15.050 Conditions for Keeping and Sanitation.

6.15.060 Inspection and Enforcement.

6.15.070 Other methods not excluded.

6.15.080 Violation and Penalty.

6.15.010 Purpose. The purpose of this chapter is to outline conditions under which city residents in certain residential districts may safely keep and maintain a limited number of allowable poultry to provide eggs for household use; to assure appropriate coops or structures in which to house poultry; and to protect the health, safety, and welfare of the general population of the City of Eau Claire.

6.15.020 Definitions. For the purposes of this Chapter, the following terms have the meaning indicated:

A. “Abutting property” shall mean all lots that the applicant’s property comes into contact with at one or more points, except for lots that are legally abutting but separated from the applicant’s property by a public or private street, alley or other right-of-way.

B. “Poultry” shall mean, for purposes of this ordinance, a female gallinaceous bird or hen of any age, including chicks. This definition includes quail but excludes waterfowl, pheasant, geese, turkeys, peacocks, emus or ostriches.

C. “Coop” shall mean an enclosed structure, building or pen within which poultry roost or are housed.

D. “Health Department” shall mean the Eau Claire City-County Health Department.

E. “Run/Enclosure” shall mean the fenced or enclosed outdoor space provided for poultry. Runs/Enclosures shall be fully enclosed, including the top and all sides.

F. “Residential structure” shall mean any building located on a residentially zoned property, including a detached garage or shed.

6.15.030 License Required.

A. No person shall own, harbor, keep, or maintain poultry within the corporate limits of the city without first obtaining a license. Construction of a coop shall not commence until an application for a license has been submitted.

1. Applications for a license shall be made prior to acquiring a licensable poultry, on such forms as provided by the city.
2. Applicants shall register with the Wisconsin Department of Agriculture, Trade and Consumer Protection pursuant to §95.51, Wis. Stats., and provide proof of registration with the Department prior to obtaining a city license.
3. Applicants shall state on the licensing application the number of planned poultry, the plan to dispose of manure and other waste, as well as their intended coop design and materials plan including a diagram describing the location of the coop and any attached run/enclosure in relationship to lot boundaries and nearby structures, and on any renewal only if the applicant intends to increase the number of poultry or relocate the coop structure on the property from the previous license.
4. The city shall provide written notification to all owners of real estate within 100 feet of the applicant's property. Owners of abutting property to that of the applicant may object in writing to the issuance or the renewal of a license within fourteen (14) days of notification issuance. If an objection is received, the license shall be presented to the city council for consideration.
5. Applicant shall pay a license fee as provided in the City of Eau Claire Fee and License Schedule with application.
6. Applicant shall certify that the poultry and poultry products are primarily for personal non-commercial use. No commercial sales from the residence or any residential area within the city is permitted.
7. An inspection of the completed coop shall be completed by the Health Department or city staff prior to license issuance and thereafter of the coop and any poultry prior to license renewal or upon credible complaint or as determined necessary. Applicant or licensee shall pay any applicable inspection fee as provided in the City of Eau Claire Fee and License Schedule.
8. Licenses shall be issued for a term of one year, commencing with the first day January and expiring on December 31. Failure to renew a license in a timely manner may result in citations and the issuance of a late fee.

6.15.040 Property Requirements and Coop Design.

A. Property Requirements.

1. Poultry shall only be kept and maintained on a lot zoned R-1 and used as a single-family dwelling, except that poultry may be kept on a lot zoned R-2 and used as a multi-family dwelling if the applicant does all of the following:
 - a. Submits a written statement of support to the city signed by the landlord or property owner and all other tenants within the dwelling.
 - b. Submits a written agreement between landlord or property owner and applicant, as to the plans for maintenance of the coop and poultry and their disposition after the applicant vacates the premises.
2. Poultry shall not be kept or maintained upon a vacant lot or inside a residential structure, including basements, porches, garages, shed, or similar storage structure.
3. A coop and any attached run/enclosure shall be located in the back or side yard of the license holder's residence.
4. A coop and any attached run/enclosure shall be located at least ten (10) feet from an abutting lot, at least twenty-five (25) feet from any residential structure on adjacent lots, at least five (5) feet from any residential structure on the applicant's lot, and at least two (2) feet from all lot lines.

5. Contiguous lots under common ownership shall be combined for purposes of this chapter. Setback provisions contained in this section shall not be applicable to those property lines creating the contiguous portion of a lot.

B. Coop Design.

1. All poultry shall be kept and maintained within a detached, stationary structure used exclusively for the keeping of poultry. Temporary or movable devices and structures shall be prohibited.

2. Coops shall be constructed in a skillful manner, including being ventilated, insulated, roofed, constructed of moisture resistant materials, and in compliance with current city building and zoning ordinances.

3. The coop's structural floor area shall not exceed sixty-four (64) square feet, and the height of the coop shall not exceed eight (8) linear feet as measured vertically from the coop's grade level to the outside highest point of the coop.

4. The coop floor, foundation and footings shall be constructed using a hard, cleanable surface, (e.g., concrete, wood, linoleum, or hard plastic) and shall be resistant to rodents. A dirt floor is not acceptable.

5. All coops, including run/enclosure, shall be enclosed with wire netting or equivalent material including a protective overhead that will prevent poultry from escaping the coop or the attached run/enclosure.

6. All coops and attached structures shall be sized to provide a minimum of three (3) square feet per bird.

7. License information shall be attached to the coop, including the name of the license holder, license number, and an emergency contact telephone number.

6.15.050 Conditions for Keeping and Sanitation.

A. Conditions for Keeping.

1. A person keeping or maintaining poultry on residential property:

a. Shall keep or maintain not more than five (5) total poultry.

b. Shall keep or maintain poultry within a coop or attached coop run/enclosure at all times.

c. Shall not keep or maintain any roosters, cocks, or drakes.

2. Poultry shall be provided with access to feed and clean, water at all times.

3. Poultry that become ill shall receive veterinary care on-site or at a veterinary office. Poultry ill with an infectious disease capable of being transmitted from bird to bird or from birds to humans, including but not limited to, salmonella, avian influenza, are prohibited and shall be immediately euthanized by a veterinarian or immediately removed from the city and humanely killed outside of the city. Any person keeping poultry shall immediately report any unusual illness or death of poultry to the Health Department.

4. The Health Officer may order testing, quarantine, isolation, vaccination or humane euthanasia of ill poultry or poultry believed to be a carrier of a communicable disease per DHS 145.06(6), Wis. Stats.

5. A dog or cat which kills or injures a bird shall not, for that reason alone, be considered a dangerous animal under Chapter 6.08 of this Code.

6. Deceased birds shall be disposed of immediately in a safe manner, which may include trash disposal after placing the deceased bird in in a sealed bag.

7. All waste including manure shall be disposed of in a safe and adequate manner that does not create a public nuisance. Composting of manure shall be done in a dedicated, enclosed container at least twenty-five (25) feet from any residential structure on adjacent lots, at

least five (5) feet from any residential structure on the permitted lot, and at least two (2) feet from all lot lines.

8. The slaughtering of any permitted poultry may be conducted on the property only if conducted in a humane and sanitary manner, outside of the view of any public area or adjacent property, in accordance with all applicable laws, rules, and regulations, and for personal use only. A maximum of five (5) total poultry may be slaughtered on the property in a license year. This shall not constitute animal cruelty for purposes of Chapter 6.11 of this Code.

a. Culling of poultry for non-meat purposes shall be prohibited, except as may otherwise be required by this chapter.

9. Poultry shall be secured within a coop during non-daylight hours.

10. Poultry shall not roam free outside of a coop or attached run/enclosure, or off of the permitted property.

11. No person may keep or harbor any poultry, which habitually by any noise disturbs the peace and quiet of any person in the vicinity.

12. Coops shall be entirely removed from the property within ninety (90) days of the nonrenewal of a license.

13. Offsite sale of eggs is prohibited except as otherwise permitted by the State of Wisconsin and United States Department of Agriculture. All distribution of eggs shall be documented, including the names, address, and phone number of receiving individuals.

B. Sanitation.

1. Poultry feed shall be stored and kept in containers which make the feed unavailable to rodents, vermin, wild birds and predators.

2. All coops, attached runs/enclosures and yards where poultry are kept or maintained shall be cleaned regularly to keep them reasonably free from substances, including but not limited to manure, uneaten feed, feathers, and other such waste that it does not cause the air or environment to become noxious or offensive or to be in such condition as to promote the breeding of flies, mosquitoes, or other insects, or to provide habitat, breeding or feeding place for rodents or other animals, or otherwise be injurious to public health.

3. Poultry shall be kept and handled in a sanitary manner to prevent the spread of communicable diseases among birds or to humans.

6.15.060 Inspection and Enforcement.

A. License fees shall not be prorated or refundable.

B. City and Health Department staff shall have the power, whenever it may deem reasonably necessary, to enter a building, structure, or property related to a license under this chapter to ascertain whether the license holder is in compliance with this chapter. Compliance orders and citations may be issued pursuant to the provisions of this chapter, City Code and State law.

C. Violations of this chapter may constitute a public nuisance under Chapter 9.36 of this Code, or under Wisconsin Statutes Chapter 823. The city may maintain an action to recover damages or abate a public nuisance pursuant to Chapter 9.36 of this Code or Wisconsin Statutes Chapter 823.

D. A license issued hereunder may be revoked by the city clerk upon determination that the licensee has failed to comply with the provisions of this chapter, this code, or state law, or the poultry or premises has been declared a public nuisance. Once a license has been revoked, it shall not be reissued for a period of at least two years.

E. Appeals from orders of the Health Department for compliance shall be pursuant to Health Department policy in conformance with the procedures for conducting appeals enumerated in Section 68, Wisconsin Statutes. All other orders are appealable pursuant to city

code or as otherwise provided by law. An appeal does not limit the city's right to seek court intervention in the form of injunctive or other relief.

F. Licenses shall not be transferable. Only the owner of the proposed licensed real property, or an occupant of the proposed licensed real property with the owner's written permission, is eligible to obtain a poultry keeping license.

6.15.070 Other methods not excluded. The provisions of this chapter are not exclusive and may be used in combination with each other or with any other section of this code or state statute applicable to this subject matter.

6.15.080 Violation and Penalty. Any person who violates the provisions of this chapter shall upon conviction thereof, forfeit not less than \$60 (Sixty) and not more than \$500 (Five Hundred) per day of violation, if applicable, together with the costs of prosecution.

SECTION 2 That section 6.12.010, entitled "Prohibited animals," and specifically paragraph C. is hereby amended to read as follows:

6.12.010 Prohibited animals. A. No person, firm, corporation, partnership, or limited liability company shall keep, feed, or breed any fur bearing animal, game animal, or game bird as defined in sec. 29.001(30), (36) and (39), Wisconsin Statutes.

B. No person, firm, or corporation shall keep, feed, or breed any member of the feline family, other than domestic cats.

C. No person, firm, or corporation shall keep, feed, or breed any domestic fowl, except as provided in Chapter 6.15

SECTION 3. That the City of Eau Claire Fees and Licenses Schedule is hereby revised to reflect the license fee and inspection fee as stated in the fees and license schedule.

Amendments to these fees may be made by City Council resolution.

SECTION 4. The provisions of this ordinance shall take effect on January 1, 2019

(SEAL) Council Vice President/Acting President
Andrew F. Werthmann

(SEAL) City Manager Dale Peters
(ATTESTED) City Clerk Carrie L. Riepl

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