

ORDINANCE NO.
6713

**AN ORDINANCE AUTHORIZING THE KEEPING OF HENS ON CERTAIN
RESIDENTIAL PROPERTIES IN THE CITY BY AMENDING SECTION 6.08.020
OF THE RAPID CITY MUNICIPAL CODE.**

WHEREAS, the City of Rapid City (the “City”) currently prohibits the keeping of chickens in the City unless the property is zoned for agricultural uses; and

WHEREAS, many communities across South Dakota and the Country have allowed the keeping of female chickens (“hens”) on residential properties so citizens can produce fresh eggs; and

WHEREAS, the City recognizes the benefit of supporting its citizens to raise hens in order to create locally produced food; and

WHEREAS, the City recognizes that hens consume household food waste and prevent that waste from entering landfills; thereby reducing the expenses from the associated methane mitigation; and

WHEREAS, the City believes the benefits of allowing citizens to raise a small number of hens in residential neighborhoods, consistent with the regulations contained below, outweigh any potential issues the hens may cause; and

WHEREAS, the Common Council of the City of Rapid City believes it to be in the interest of the general health, safety, and welfare of the City and its citizens to adopt regulations regarding the raising of a small number of hens on residential property.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 6.04.010 of the Rapid City Municipal Code be amended to read in its entirety as follows:

For purposes of this title, the following words and phrases shall have the meanings herein ascribed to them:

...

E. **CHICKEN**. A member of the subspecies *Gallus Gallus Domesticus*, a domesticated fowl.

F. **CHICKEN RUN**. A fully enclosed and covered area attached to a coop where ***HENS*** can roam unsupervised.

G. ***CITY’S DESIGNATED ANIMAL CONTROL AUTHORITY***. That organization, agency, or city department charged with enforcement and administration of the city’s animal ordinances. ***CITY’S DESIGNATED ANIMAL CONTROL AUTHORITY*** shall include any contracted agent.

H. **CONTRACTED AGENT.** The person, organization, governmental agency, or corporation with whom the city contracts to administer and enforce the city's animal ordinances.

I. **COOP.** A covered house or structure that is required in order to provide **HENS** with shelter from the weather and with a roosting area protected from predators.

J. **DANGEROUS ANIMAL.** An animal that presents such a severe risk of serious physical harm or death to human beings or other animals that it should not be allowed to live. **DANGEROUS ANIMAL** includes, but is not limited to, any animal that has...

K. **EXPOSED TO RABIES.** Having been bitten by, or been exposed to, any animal known to be or suspected of being infected with rabies.

L. **IMPOUNDMENT.** The taking or picking up and confining of an animal by any Animal Control Officer.

M. **INHUMANE TREATMENT.** Any act of mistreatment, torture, cruelty, neglect, abandonment, mutilation or inhumane slaughter of an animal that is not consistent with generally accepted training, use and husbandry procedures for the species, breed, physical condition and type of animal.

N. **HEN.** Any female adult **CHICKEN.**

O. **KENNEL.** Any lot or premises where 4 or more animals, 6 months of age or older, are cared for overnight, in return for any compensation.

...

P. **LIVESTOCK.** Any of the following animals or hybrids thereof: horse, mule, donkey, cow, bull, goat, sheep, pig, hog, boar, and a member of the camelidae family.

Q. **MISTREATMENT.** Any act or omission whereby unnecessary, unjustifiable or unreasonable physical pain or suffering is caused, permitted or allowed to continue.

R. **MUZZLE.** A device constructed of strong, soft material or of metal designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

S. **NEGLECT OF ANIMAL.** The failure to provide food, water, adequate protection from the elements, adequate sanitation, adequate facilities, or care generally considered to be standard and accepted for an animal's health and well-being, consistent with the species, breed, physical condition and type of animal.

T. **NEUTERED DOG/CAT.** Any male dog/cat that has undergone surgery to prevent reproduction, whose owner can provide proof of surgery.

U. ***OBEDIENT TO THE RESPONSIBLE PERSON'S COMMANDS***. The animal returns immediately to and remains by the side of the person responsible for the animal in response to the responsible person's verbal command. In order for an animal to be considered ***OBEDIENT TO THE RESPONSIBLE PERSON'S COMMANDS***, the responsible person's voice commands must be effective at all times to prevent the animal from disturbing the peace, comfort, property, safety and general welfare of any other person. If an animal approaches and remains within 10 feet of any person other than the responsible person, that animal is not considered ***OBEDIENT TO THE RESPONSIBLE PERSON'S COMMANDS*** unless such person has communicated to the responsible person that such person consents to the presence of the animal. In the case that such person approached by an animal is under the age of 13, an adult must be present with the person in order to consent to the presence of the animal.

V. ***OWNER***. Any person who owns or harbors any animal. In the case of a person under the age of 18 who is owning or harboring any animal, the ***OWNER*** is that person's parent or legal guardian. An animal shall be deemed to be harbored if it is fed or sheltered for three or more consecutive days. This definition shall not apply to a veterinary clinic or kennel.

W. ***PERSON***. Any individual, partnership, corporation, association, or any other legal entity.

X. ***PET DAYCARE***. Any lot or premises or portion thereof where 4 or more animals, 6 months of age or older, are cared for in return for any compensation, but does not fit this section's definition of a ***KENNEL***.

Y. ***PET GROOMING BUSINESS***. A service establishment that has a business purpose of grooming animals and does not fit this section's definition of a ***KENNEL***.

Z. ***PET STORE***. A retail facility providing for the sale of animals and accessory products, but that does not provide overnight care of another's animal in return for any compensation.

AA. ***POTENTIALLY DANGEROUS ANIMAL***. Any animal that, because of its aggressive nature, training or characteristic behavior, presents a risk of substantial physical harm or death to human beings, or would constitute a danger to human life, physical well-being, or property if not leashed and muzzled in accordance with § 6.08.100J., if not securely confined indoors in accordance with § 6.08.100J., or if not confined in a locked pen or other secure enclosure that is suitable to prevent the animal from escaping in accordance with § 6.08.100J. The term ***POTENTIALLY DANGEROUS ANIMAL*** includes, but is not limited to, any animal that, according to the records of the city's Designated Animal Control Authority or any law enforcement agency:

...

BB. *PROPER SHELTER.* Provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal. Proper shelter provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; during hot weather, is properly shaded and does not readily conduct heat; during cold weather, provides a quantity of bedding material consisting of hay, cedar shavings, or the equivalent that is sufficient to protect the animal from cold and promote the retention of body heat; and, for dogs and cats, provides a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Shelters that have wire, grid, or slat floors that permit an animal's feet to pass through the openings, sag under an animal's weight, or otherwise do not protect an animal's feet or toes from injury are not ***PROPER SHELTER***.

CC. *ROOSTER.* Any male ***CHICKEN***.

DD. *SANITARY CONDITION.* A condition of good order and cleanliness to minimize the possibility of disease transmission.

EE. *SPAYED DOG/CAT.* Any female dog/cat that has undergone surgery to prevent conception, whose owners can provide suitable proof of such surgery.

FF. *SUBSTANTIAL BODILY HARM.* Any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or cosmetic surgery.

GG. *TETHER.* A rope, chain, or the like, by which an animal is fastened to a fixed object, stake, or trolley system so as to limit the animal's range of movement.

HH. *UNDER RESTRAINT.* When an animal is:

...

II. *UNPROVOKED.* That the animal was not hit, kicked, or struck by a person with any object or part of a person's body nor was any part of the animal's body pulled, pinched, or squeezed by a person.

JJ. *WILD ANIMAL.* Any animal(s) other than livestock, a domestic dog, or a domestic cat, which in a wild state is carnivorous or which because of its nature or physical makeup is capable of inflicting serious physical harm or death to human beings, including, but not limited to a:

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BE IT FURTHER ORDAINED by the City of Rapid City that Section 6.08.020 of the Rapid City Municipal Code be amended to read in its entirety as follows:

6.08.020 Keeping of fowl or livestock near dwellings.

A. It is unlawful for any person to keep livestock or a ~~chicken~~ duck, goose, turkey, rooster, or other fowl on a parcel or lot if the keeping of such animal is in violation of Title 17 of this Code.

B. It is unlawful and a public nuisance for any person to keep livestock or a ~~chicken~~ duck, goose, turkey, rooster or other fowl within 150 feet of any building or structure occupied by, or intended to be occupied by, human beings as a residence, within the city. However, this subsection shall not apply to the residence upon the lot where the animal is kept, housed or maintained. This subsection shall not apply to land zoned as a general agricultural district as set forth in Title 17 of this Code. This subsection shall not apply to the species of pigs that have been specifically bred to be household pets.

C. It is unlawful and a public nuisance for any person to keep livestock or a ~~chicken~~ duck, goose, turkey, rooster, or other fowl on a parcel or lot that is less than 3 acres in size. This subsection shall not apply to land zoned as a general agricultural district as set forth in Title 17 of this Code.

D. Hens may be kept in accordance with § 6.08.021. It is unlawful to keep hens where the provisions of § 6.08.021 are not met. Each day a violation occurs is a separate offense. In addition to any other remedies or causes of action the City may possess, the keeping or maintaining of a hen in a manner inconsistent with § 6.08.021 is declared to be a public nuisance and may be abated by the City as provided by state law and City ordinance.

BE IT FURTHER ORDAINED by the City of Rapid City that a new Section 6.08.021 of the Rapid City Municipal Code is hereby adopted to read in its entirety as follows:

6.08.021 Chicken Keeping.

Subject to the restrictions set forth in this Section, hens may be kept on any parcel or lot which is used and occupied as a single-family dwelling, as defined by § 17.04.225 of this Code, in the following zoning districts defined in Title 17 of this Code: Low Density Residential 1 (LDR-1), Low Density Residential 2 (LDR-2), Medium Density Residential District (MDR), High Density Residential (HDR), Mobile Home Residential (MHR), and Park-Forest District (PF).

A. Roosters. The keeping and raising of roosters is prohibited.

B. Limitations on the keeping of hens.

1. Number limitation. The maximum number of hens allowed on any parcel or lot is six (6). An additional six (6) female brooding chicks up to the age of twelve

- (12) weeks may be kept for cyclical replacement of hens. An owner will ensure that any cyclical replacement does not result in a violation of this Section.
2. Chicken runs and coops. Any owner must provide hens with proper shelter including, at a minimum, a coop and chicken run which will be duly permitted in accordance with Title 17 of this Code. Coops and chicken runs will be enclosed and constructed in such a manner to keep out dogs, cats, wildlife, predators, rodents, and other vermin.
 - i. Coop requirements. The coop must be well ventilated and secure with a solid roof. Coops must provide for an area of at least two (2) square feet per hen.
 - ii. Chicken run specifications. Chicken runs will be attached to the coop and have a minimum area of ten (10) square feet per hen.
 3. Exercise yard. Owners may provide hens a larger fenced area that provides space for exercise and foraging when supervised by their owner. The fence around the exercise yard will be securely constructed and will have protective netting to keep the hens separated from other animals.
 4. Feed and water. Hens must be provided with access to feed and clean water at all times. The feed and water must be unavailable to rodents, wild animals, and predators. All stored feed must be kept in a rodent and wildlife proof container.
 5. Noncommercial use only.
 - i. Hens must be kept for personal use only.
 - ii. The selling of chickens, eggs, chicken manure, or the breeding of hens for commercial purposes is prohibited.
 6. Restrictions.
 - i. Front and side yards. Hens, coops, chicken runs, and exercise yards are not permitted in the area designated as a property's front yard or side yard as defined by §§ 17.04.760 and 17.04.770 of this Code and must be located in a back yard behind the residential structure on the subject property.
 - ii. Easements. Coops, chicken runs, and exercise yards are not allowed within any easement.
 - iii. Special Flood Hazard Area. Coops, chicken runs, and exercise yards are not allowed within any special flood hazard area as defined by § 15.32.050 of this Code.
 - iv. Multi-family, Two-Family, and Townhouse. The keeping of hens on lots used and occupied as a Multi-Family Dwelling, Two-Family Dwelling, or Townhouse Dwelling, as defined by §§17.04.225, 17.04.235, and 17.04.230 of this Code, is prohibited.
 - v. Primary use. No building or structure to house hens will be constructed on a parcel or lot prior to the time of occupancy of the principal structure.

- vi. Free roam. Hens will not be free roam and must remain in their coop, chicken run, or exercise yard at all times.
 - vii. Housing. Hens will not be housed in a residential dwelling or an attached or detached garage. However, hens and female brooding chicks may be kept in a house or garage on a temporary basis while the animal is injured or brooding.
- C. Backyard Setbacks. The construction and location of any coop, chicken run, or exercise yard will be twenty-five (25) feet from any residential dwelling, church, school, or place of business, excluding the residence on the subject property, fifteen (15) feet from any lot line, or meet any setback restrictions as set forth in Title 17 of this Code, whichever distance is greatest.
- D. Sanitation. Any area where hens are kept shall be maintained in a clean condition to avoid dust, odor, waste, and unsanitary conditions. Detectable odors on a neighboring property emanating from an area where hens are kept is a violation of this Section.
- E. Noise. Noise from hens must not be loud enough beyond the boundaries of the property to violate § 6.08.090 of this Code.
- F. Deceased chickens. Deceased chickens, which were kept pursuant to this Section, must be disposed of as soon as possible, but no later than thirty-six (36) hours following mortality. Deceased chickens may be disposed of at the City landfill during normal operating hours and will not be accepted for City curbside disposal.
- G. Exception. This Section and its requirements do not apply to land that is zoned as a General Agricultural District (GAD) as set forth in Title 17 of this Code.

CITY OF RAPID CITY

Jason Salamun, Mayor

ATTEST:

Daniel Ainslie, Finance Director

(SEAL)

First Reading:

Second Reading:

Published:

Effective: