

STATE OF ILLINOIS :
COUNTY OF LIVINGSTON :
CITY OF FAIRBURY :

Ordinance No. 2019-3

AN ORDINANCE AMENDING CHAPTER 14
OF THE MUNICIPAL CODE OF THE CITY OF FAIRBURY OF 1982
IN RELATION TO DOGS

Whereas, the Municipal Code Book of the City of Fairbury was established in 1982, and

Whereas, there was a discussion at the all-committees meeting where it was determined that an ordinance should be passed that amends Chapter 14 of the Municipal Code to provide for more contemporary animal standards

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRBURY, LIVINGSTON COUNTY, ILLINOIS as follows:

SECTION I

Chapter 14, DOGS, shall be amended to read:

CHAPTER 14

ANIMALS

.01 DOGS

.02 DEFINITIONS.

(a) At Large. Any dog shall be deemed to be at large when he is off the property of his owner and not under the control or proper restraint of a responsible person.

(b) Restraint. A dog is under restraint if he is controlled by a leash; at "heel" beside a responsible person, or obedient to that person's commands; within a vehicle being driven or parked on the streets, or within the property limits of his owner or keeper.

.03 RUNNING AT LARGE.

No dog shall be permitted to run at large in the City. Every dog within any city park, recreational area, or the north trail shall be restrained by a leash. (2003-12)

.04 REMOVAL OF EXCRETA.

The owner of a dog and the person who has control of a dog at any given time shall remove the excrement deposited upon public property. At no time shall the owner of a dog allow such dog onto private property. This section shall not apply to a blind person while walking with his or her guide dog. (2003-12)

.05 DISTURBING THE PEACE.

No person owning any dog shall permit such dog to disturb the peace and quiet of the neighborhood by allowing such dog to bark or make loud noises or by running through or across bushes, landscaping, cultivated gardens or fields, or in any manner damaging or destroying property of other persons.

.06 LICENSES.

The City of Fairbury will not issue dog licenses, but will rely on rabies tags issued by Livingston County for identification purposes. (1999-1)

.07 NUISANCES. Amended (2003-12)

(a) A dog found within the corporate limits of the City of Fairbury shall be classified as a nuisance, and its owner in violation of this Section when the dog shall commit and repeat any of the following acts:

1. Molesting persons or moving vehicles by chasing or barking or otherwise encumbering them.
2. Attaching to other animals that are being maintained in a lawful and otherwise proper way on the premises of their owner or that are away from the owner's premises but under restraint of their owner or other authorized person.
3. Damaging property other than that of the dog's owner.
4. Disturbing the peace as provided in Section .05 of this Chapter.

.08 RABIES PROTECTION.

Each calendar year, or at such intervals as may hereafter be promulgated by the Department of Agriculture of the State of Illinois, every owner or keeper of a dog four months or more of age shall cause such dog to be inoculated against rabies. The tag issued to the owner or keeper of said dog by a veterinarian inoculating such dog shall be attached to the collar or harness worn by the dog. Such inoculation shall be performed by a veterinarian duly licensed to practice his profession in the state, and shall be performed in accordance with the regulation promulgated by the said Department of Agriculture.

.09 DANGEROUS AND VICIOUS DOGS. (section added 1999-12)

(a) "Dangerous dog" means any one of the following:

- (i) any individual dog which when either unmuzzled or muzzled, unleashed or leashed, or whether attended by its owner, or a member of its owner's family or unattended, and in a threatening manner, approaches any person with the apparent intention to attack upon the streets, sidewalks, or any public grounds or places in the corporate limits of Fairbury, or
- (ii) any individual dog which has been declared or found to be a dangerous dog by the proper authorities of any other jurisdiction in accordance with the statutes or ordinances of such other jurisdiction

(b) The Chief of Police of Fairbury may conduct an investigation and recommend to the Fire and Police Committee of the City Council of the City of Fairbury that a particular dog be declared a dangerous dog. Based upon that investigation the Fire and Police Committee may find and declare in writing that a dog is a dangerous dog as defined in paragraph (a) of this section.

(c) It is unlawful for any person to permit any dangerous dog to leave the premises of its owner when not under control by leash or other recognized means.

(d) "Vicious dog" means any one of the following:

- (i) any individual dog that when unprovoked inflicts bites or attacks a human being or other animal either on public or private property, or
- (ii) any individual dog with a known propensity, tendency, or disposition to attack without provocation, to cause injury, or to otherwise endanger the safety of human beings or domestic animals, or
- (iii) any individual dog that has, as a trait or characteristic and a generally known reputation for viciousness, dangerousness, or unprovoked attacks upon human beings or other animals, unless handled in a particular manner or with special equipment, or
- (iv) any individual dog which attacks a human being or domestic animal without provocation, or
- (v) any individual dog which has been found to be a "dangerous dog" upon three separate occasions by the Fire and Police Committee of the City Council of Fairbury or the proper authorities of any other jurisdiction in accordance with the statutes or ordinances of that jurisdiction. Said three separate occasions do not have to be all by the same authority or jurisdiction, or
- (vi) any individual dog which has been found to be a vicious dog by the proper authority of any other jurisdiction in accordance with the statutes or ordinances of that jurisdiction.

(e) No dog shall be deemed vicious if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it or is a professionally trained dog for law enforcement or guard duties and which is maintained by its owner for those purposes. Vicious dogs shall not be classified in a manner that is specific as to breed.

(f) "Found to be a vicious dog" means that the Chief of Police of the City of Fairbury has conducted an investigation and made a recommendation that a particular dog is a vicious dog as defined in paragraph (d) of this Section and, based upon that investigation and recommendation, the Fire and Police Committee of the City Council of Fairbury has declared in writing that the dog is a vicious dog, or that the Circuit Court of any county in Illinois which had jurisdiction over the dog has found the dog to be a vicious dog in accordance with the Animal Control Act of Illinois.

(g) Any dog which has been found to be a vicious dog shall be kept in an enclosure. When a dog has been found to be a vicious dog the owner shall surrender the dog to the police who shall keep it in a secure facility until the owner has prepared an enclosure for the dog. If the owner does not surrender the dog to the police, then the police may enter onto the owner's premises or any other premises where the dog may be to take custody of the dog. The owner may appeal the finding of the Fire and Police Committee of the City Council that the dog is a vicious dog to the Circuit Court of Livingston County in seven working days of the finding. If the owner tells the police that he does not want the dog returned or if he does not prepare an enclosure within 14 days of the police taking the dog, then the dog shall be turned over to a licensed veterinarian for destruction by lethal injection. The dog shall not be released to the owner until the Chief of Police approves the enclosure as defined in this Section.

(h) "Enclosure" means a fence or structure of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog within the enclosure. Such enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure. The enclosure shall have affixed to it a sign reading "WARNING! VICIOUS DOG."

(i) It shall be unlawful for any person to keep or maintain any dog which has been found to be a vicious dog unless such dog is at all times kept in an enclosure. The only times that a vicious dog may be allowed out of the enclosure are (1) if it is necessary for the owner or keeper to obtain veterinary care for the dog or (2) to comply with the order of a court of competent jurisdiction, provided that the dog is securely muzzled and restrained with a chain having a tensile strength of 300 pounds and not exceeding three feet in length, and shall be under the direct control and supervision of the owner or keeper of the dog.

(j) Any dog which has been found to be a vicious dog and which is not confined to an enclosure shall be impounded by the police and shall be turned over to a licensed veterinarian for destruction by lethal injection. The owner may appeal the impoundment order to the Circuit Court of Livingston County within seven working days and if the owner does not appeal within that time then the dog may be humanely dispatched.

(k) All fees and costs which the City incurs on account of any dog pursuant to this Section of the City Code shall be paid by the owner of the dog whether or not the dog is returned to the owner.

.10 DISPOSITION OF FEES COLLECTED.

All fees or fines collected shall be paid to the City Clerk.

.11 SEVERANCE CLAUSE.

If any section, paragraph, clause or provision of this chapter shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this chapter.

.12 HENS

.13 DEFINITIONS.

Chicken – An individual animal of the species *Gallus gallus domesticus*.

Hen – The female of the species *Gallus gallus domesticus* or chicken.

Rooster – The male of the species *Gallus gallus domesticus* or chicken.

Coop - A structure that is designed to house hens which is enclosed on all sides with a roof, door, and windows.

A mobile coop will be considered a chicken coop. Also referred to as a 'coop'.

Run –An outdoor area that is enclosed on all vertical sides by fencing. The run must be attached to or must surround a chicken coop with a doorway or hatch that allows access into the space by chickens. Also referred to as a 'paddock'.

Nesting box – A box provided for a hen to make its nest in.

Dwelling – Any building or portion thereof, but not a trailer, which is designed for or used for residential purposes, including single-family, two-family, multiple dwellings and apartment houses, but not including hotels, motels boarding or lodging houses.

Dwelling, single-family- A building designed for or occupied exclusively by one family.

Dwelling, two-family – A building designed for or occupied exclusively by two families.

Yard, front – A yard extending across the front of a lot and measured between the street and the uncovered steps, uncovered balconies, or uncovered porch.

Yard, rear – A yard extending across the rear of a lot between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots the rear yard shall be at the opposite end of the lot from the front yard.

Yard, side – A yard between the main building and the side line of the lot, extending from the front yard to the rear yard line.

Lot – A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one main building together with any accessory building, the open spaces and parking spaces required by this Ordinance, and have its principal frontage upon a street or upon an officially approved place.

.14 LICENSING.

- (a) No person shall possess a hen in the City of Fairbury until a license has been issued as set forth in this section by the City of Fairbury.
- (b) The City may deny a license to any person who:
 - 1. Is delinquent to the City of Fairbury past 30 days; or
 - 2. Has, in the last ten (10) years prior to application for a license under this section, been convicted or plead guilty to any violation of chapter 06 (Refuse & Garbage), chapter 07 (Offenses against Public Peace, Safety & Morals), Chapter 09 (Parks & Playgrounds), Chapter 13 (Nuisances), Chapter 14 (Animals), or the Zoning Code.
- (c) Licenses will only be granted to persons who reside on parcels with single-family and two-family dwellings.
- (d) Only one license will be issued per zoning lot.
- (e) Property considered for boundaries, property lines or square footage must be in a single zoning lot.

.15 APPLICATION PROCESS.

- (a) Applications to obtain a license to keep hens shall be submitted on a form provided by the City Clerk. Applicants shall provide the City Clerk with proof that a copy of the application has been provided to the owners of all property abutting on the applicant's property.
- (b) Neighbor approval of that application is not required.
- (c) Inspections. Before a license will be issued, the licensee submits to an initial inspection of the coop and run to determine the licensee's compliance to the standards established herein.

.16 COSTS.

The license shall initially cost \$50.00. Licenses must be renewed annually and shall cost \$25.00 after the first year. Payments must be made to the City of Fairbury.

.17 LICENSE TERMS.

- (a) The licensee must be the owner of the property where the hens will reside.
- (b) All licenses pursuant to this section shall be valid for one year from the date of issuance. If the licensee is found to be in violation of the standards outlined in this section and does not become

compliant within seven (7) days, the license will be allowed to either expire at the end of the period or immediately terminated. A new license will only be issued after the coop and run have been inspected and approved.

- (c) The number of hens allowed per license shall be a minimum of four (4) and a maximum of ten (10).
- (d) Roosters are not allowed in the City.
- (e) For each additional 5,000 square feet of property over 5,000 square feet one (1) additional hen shall be allowed up to a maximum of ten (10).
(example: 10,000 square foot lot could have 7; 15,000 square foot lot could have 8; 20,000 square foot lot could have 9....)

.18 CONFINEMENT OF HENS.

(a) Confinement of hens shall follow the following provisions:

1. No hen shall be permitted to run at large.
2. Hens shall be kept in a designated coop or run. Hens may be allowed to exercise in a rear yard with a four foot (4') or higher fence under supervision.
3. Hens must be kept in coops from dusk until dawn.

.19 COOPS & RUNS.

(a) Housing for hens shall follow the following provisions:

1. A building permit is required.
2. The coop and run are allowed in the rear yard only. See diagram labeled YARD DESCRIPTION in Zoning Code.
3. The coop and run shall be located at least ten feet (10') from the property line and at least twenty feet (20') from any neighboring dwelling.
4. The coop must be built to provide adequate ventilation, shade, protection from precipitation, protection from cold weather, and to be secure from predators and wild birds. Coops and runs shall be adequate for the purpose, kept in good repair and shall not be allowed to become unsightly.
5. Openings in windows and doors must be covered by wire mesh, chicken wire, or screen to deter predators.
6. Access doors must be sized and placed for ease of cleaning.
7. The run must be attached to the coop or must surround the coop. The sides of the run must be made of chicken wire, fencing or wire mesh that discourages predators or escaping hens.
8. The run must be enclosed on all sides, including the top or roof plane.
9. The coop shall provide a minimum of four (4) square feet of floor area per hen. The run shall provide a minimum of eight (8) square feet of floor area per hen. The coop shall provide one (1) nesting box per hen.
10. Coops must not exceed one-hundred and twenty (120) square feet.
11. Coops must not exceed eight (8) feet in height.
12. The run or paddock shall be no less than thirty-two (32) square feet in area.

.20 COOP & RUN MAINTENANCE.

- (a) The coop and run shall be kept in a clean, dry and sanitary condition at all times. Manure, uneaten and discarded feed, feathers and other waste must be removed regularly and at a minimum of once per week from the property by the property owner. Chicken manure is prohibited from the City garbage collection.
- (b) Carcasses of deceased hens must be removed within twenty-four (24) hours of death from the property.
- (c) The slaughtering of hens is permitted but must be done within an enclosed building.
- (d) Feed must be stored in a fully enclosed, rodent proof container inside an enclosed building.

.21 NON-RENEWAL OR TERMINATION OF LICENSE.

- (a) If a license issued under the terms of this article is not renewed by the licensee, or is terminated by the appropriate City officials, the owner of the property on which the coop and hens are located shall, within seven (7) days, remove all hens from the City of Fairbury and remove the coop and any other related facilities from the premises.
- (b) If the licensee chooses to annul the license by his or her own choosing before the license's designated expiration date, they shall notify the City Clerk's office within seven (7) days of the decision.

.22 PETITIONS OF COMPLAINT.

- (a) Whenever any person shall complain to the Police Department regarding the noise, odor or unsightliness of hens, a coop, or a run, being kept by any person in the City, the Police Department shall notify the owner of said hens, coop, or run that a complaint has been received and that the person should take whatever steps are necessary to become compliant with the standards set herein within seven (7) days from notification of complaint to property owner.

.23 POWER OF THE MAYOR & COUNCIL.

- (a) The Mayor and City Council shall have the power to issue an order prohibiting the keeping of hens, including the abolishment of this ordinance, if a health hazard has been shown at a hearing presided by the Mayor and City Council to pose a safety issue to the public.
- (b) The Mayor and City Council have the ultimate authority to deny or revoke any licenses for any licensees found not to be in compliance in the standards and regulations set forth in this section.

.24 TREATMENT OF ANIMALS

It shall be unlawful for any person to willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse or cruelly beat, strike or abuse any animal, or by an act of omission or neglect, cause or inflict any unnecessary or unjustifiable pain, suffering, injury, or death to any animal.

.25 PENALTY.

- (a) A person found to be keeping hens without a license will have seven (7) days from notification to achieve compliance with these standards. The initial license fee will increase to \$100.
- (b) Hens, a coop or a run not maintained according to the standards set herein shall be deemed a public nuisance, and punishment will be issued as outlined in Chapter 13 - Nuisances.
- (c) The licensee is subject to the following additional penalty:
 - 1. If the licensee is found to be in violation of the standards set herein, three or more times, the license will be immediately and permanently revoked.
 - 2. If the licensee is found to have abandoned their hens, they will be subject to a fine not exceeding seven-hundred and fifty (\$750) dollars, depending on the severity of the abandonment.
- (d) Any person found to be in violation of any section pertaining to dogs shall be subject to the following penalties:
 - 1. For any dog not carrying a tag certifying to his inoculation in accordance with the provision hereof, \$5.00. (1999-1)
 - 2. For any other violation pertaining to dogs: amended 2003-12
 - (a) \$20.00 for the first offense. (1999-1)
 - (b) Each offense thereafter shall be considered a Class C misdemeanor, punishable by a fine of at least \$75.00 but not to exceed \$750.00. (1999-1)
 - 3. If legal action is required to collect fines for the above described offenses, the owner of the offending dog shall be responsible for any cost and fees incurred to collect said fine. (1999-1)

.26 KEEPING OF ANIMALS RESTRICTED

It shall be unlawful for any person to own, use, keep within the city any of the following animals: bees, pigeons, horses, cattle, sheep, goats, ponies, mules, pigs, swine, hogs, ducks, geese, minks, skunks, foxes, chinchillas, or any other livestock or poultry or any wild or vicious animal dangerous to mankind.

SECTION II

Any person in violation of any part of this Ordinance shall be fined not more than \$750.00 for each offense.

SECTION III

All ordinances or resolutions or parts thereof in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

This ordinance shall be effective after passage by the City Council of the City of Fairbury, Illinois, and its approval by the Mayor of the City of Fairbury, Illinois, and its publication in pamphlet form as required by law.

Passed by the City Council of the City of Fairbury, Illinois on April 17, 2019.

Ayes: 4 Nays: 1 Absent: 2

Approved by the Mayor of the City of Fairbury, Illinois on April 17, 2019.

(CITY SEAL)

Attest: Nancy Wialacki
City Clerk

D. J. Bell
Mayor