

TITLE AND SUMMARY OF ORDINANCE 2020-02

AN ORDINANCE AMENDING THE MUNICIPAL CODE, PART 1 CHAPTER 10 - ANIMALS

The City Council of the City of Clearwater, Minnesota, Counties of Wright and Stearns, does hereby amend the City Code.

City Code Chapter 10 – Animals is hereby amended with the following changes:

The general definition of prohibited **poultry** has been amended to exclude chickens.

Article III - Chickens has been added, which outlines new regulations governing the keeping of chickens in city limits. It also outlines the permit requirements for the keeping of chickens.

A complete copy of the Ordinance is available for inspection at City Hall, 605 County Road 75, Clearwater, MN, 55320, or on the City's website at www.clearwatercity.com.

CITY COUNCIL
CITY OF CLEARWATER

ORDINANCE NO. 2020-02

ORDINANCE AMENDING CHAPTER 10 (ANIMALS) OF THE CITY CODE
TO ALLOW THE KEEPING OF CHICKENS

THE CITY OF CLEARWATER ORDAINS:

Section 1. Amendment of the City Code. Chapter 10 of the City Code of the City of Clearwater, Minnesota, is hereby amended to redefine “poultry” as excluding chickens, and by adding Division III – Chickens. The attached document outlines in red the full changes adopted herein by the City Council.

Section 2. Effective Date. This ordinance shall be in full force and effect upon its passage and summary publication, which is hereby authorized by the City Council.

ADOPTED THIS 28th DAY OF MAY 2020

ATTEST:

Andrea Lawrence, Mayor

Annita M. Smythe, City Administrator

Chapter 10

ANIMALS*

* **State Law References:** General authority relative to animals, Minn. Stats. § 412.221, subd. 21; animal health, Minn. Stats. ch. 35; dogs and cats, Minn. Stats. ch. 347; cruelty to animals, Minn. Stats. § 343.20 et seq.; stray animals and companion animals, Minn. Stats. ch. 346

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ARTICLE I.

IN GENERAL

Sec. 10-1. 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:

At large means off the premises of the owner and not under the control of the owner, or other competent person, either by leash not exceeding six feet in length or otherwise restrained.

Household means a single-family residence, apartment or manufactured home.

Commercial Kennel means a place where more than three dogs thereof are kept for the business of selling, boarding for a fee, breeding for sale, or some other enterprise intended primarily for profit-making purposes. The term “commercial kennel” shall not include pet stores, pet grooming shops, or animal hospitals.

Owner means any person, firm, or corporation owning, harboring or keeping a dog, cat or other animal specified herein.

Poultry means domesticated birds kept for their eggs, meat, or feathers, including turkeys, ducks, geese, quail and other similar fowl. For purposes of this chapter 10, chickens shall be excluded from the definition of *Poultry*, and regulated as outlined in Article III of this chapter.

Pound means the duly licensed facility designated by the city to be the place of confinement for any animal authorized to be impounded under this chapter.

Poundmaster means the person in charge of the city pound.
(Ord. No. 4.03, § 1.0, 3-21-1983)

Sec. 10-2. Violations.

Upon notification to the city clerk-treasurer or other authorized person of violations of subsection 10-36(b) and section 10-3, the city clerk-treasurer or other authorized person may act to have the dog or animal impounded and/or quarantined immediately. Any owner who does not comply with the requirements of this article, or who resists attempts to enforce this article, shall be guilty of a petty misdemeanor.
(Ord. No. 4.03, § 5.0, 3-21-1983, Amended 7-2-2012)

Sec. 10-3. Dog or animal biting; quarantine.

Whenever any dog or other animal has bitten any person, the owner or custodian of any such dog or animal, having been so notified, either orally or in writing, shall immediately quarantine the dog or animal at the owner's home or other suitable place of confinement, as directed by the responsible officer of the city, for a period of 14 days after the occurrence.

During the quarantine period, the animal shall be securely confined in a building or in a yard enclosed by a fence so constructed that the animal cannot escape or otherwise leave the enclosure, and which will not permit other animals or persons to enter, for the purpose of preventing the animal from biting or otherwise coming in contact with persons or other animals.

Upon a reasonable suspicion that the dog may be rabid, the dog shall be subjected to the necessary tests by a doctor of veterinary medicine for the purpose of determining if it is infected with rabies.

The confinement, testing, treatment, in addition to all other expenses incurred as the result of a dog biting a person shall be the expense of the owner of the animal.

(Ord. No. 4.03, § 2.2, 3-21-1983, Amended 7-2-2012)

State Law References: Dog bites, Minn. Stats. § 346.51.

Sec. 10-4. Disposition of diseased dogs or animals.

If a dog or animal quarantined under section 10-3 is found to be sick or diseased, the operator of the quarantine facility shall immediately report in writing to the county health officer the condition of the dog or animal. The health department may then take possession of the dog or animal for the purpose of determining if it is suffering from rabies. A diseased dog or animal may either be destroyed or euthanized, if the county health officer determines such action necessary for the protection of public health and safety, as recommended by a licensed veterinarian.

(Ord. No. 4.03, § 2.3, 3-21-1983)

Sec. 10-5. Other animals.

It shall be unlawful for any owner to keep, harbor or confine within the limits of the city any wild animals, or any animal creating a nuisance or health hazard, or any horses, cows, sheep, pigs, goats, poultry (excluding chickens), or any other large domesticated animals.

(Ord. No. 4.03, § 2.4, 3-21-1983)

Sec. 10-6. Vicious animals.

It shall be unlawful for any owner to keep, harbor or confine within the city any animal, known to be vicious, which animal known to its owner has, on at least one prior occasion, without provocation attacked, bitten or scratched any person unless said person was unlawfully on the premises of the owner of said animal.

(Ord. No. 4.03, § 2.5, 3-21-1983)

Sec. 10-7. Restrictions on food and drink establishments.

Except as otherwise provided by law, it shall be unlawful for the owner or operator of any establishment wherein the selling, handling, processing or preparation of food is done to permit any animal in such establishment.

(Ord. No. 4.03, § 2.6, 3-21-1983)

State Law References: Right to bring certain service dogs into places of public accommodation, Minn. Stats. § 256C.02.

Secs. 10-8--10-32. Reserved.

ARTICLE II.

DOGS AND CATS

DIVISION 1.

GENERALLY

Sec. 10-33. Impounding; redemption and other disposition.

(a) *Impoundment.* It shall be lawful for any peace officer, or any authorized person employed by the city, to take up and impound any dog found in the city without the currently effective tag provided for in section 10-65 or any dog found running at large at any time within the city in violation of subsection 10-36(b); and in enforcing this article such officers, or employees, may enter upon any private premises where they have reason to believe there is an unlicensed dog.

(b) *Redemption.* Dogs may be redeemed from the pound by the owner any time during office hours within 120 hours after seizure and impoundage upon a sworn statement of ownership, proof that a license has been duly issued for said dog, presentation of a receipt showing payment to the city clerk-treasurer of the impounding fee in the amount established by the city, and payment to the pound for all boarding and other fees incurred during the period of impoundment. The poundmaster shall thereupon release to the owner the dog claimed by them, unless the dog is being held for rabies observation pursuant to section 10-3. Owners of dogs who live outside of the city and who are not subject the licensing requirements of this chapter, and whose dog or dogs have been impound for running at large within the city, may redeem their dog within the same time limits as above by completing all of the redemption requirements except that of licensing. All unpaid cost incurred by the city for impounding shall be assessed to the owner's property.

(c) *Disposition of unredeemed, sick or injured dogs.* Any dog not redeemed as provided for in subsection (b) of this section, within the time specified therein, may be disposed of in any humane manner selected by the poundmaster. Any sick or injured dog which has been impounded may be disposed of in any humane manner if the poundmaster has been unable to locate the owner after reasonable effort and if, in his discretion, the humane action would be the destruction of the animal.
(Ord. No. 4.03, §§ 4.1--4.3, 3-21-1983; Ord. of 4-8-1988, § 4.2, Amended 7-2-2012)

Sec. 10-34. Limit on number of dogs and cats.

It shall be unlawful for any owner to harbor or keep in any household more than a total of four (4) dogs and cats together, over the age of four (4) months within the limits of the City of Clearwater.
(Ord. No. 4.03, § 2.0, 3-21-1983, Amended 7-2-2012)

Sec. 10-35. Commercial Kennels.

No person shall maintain a commercial kennel within the city limit without obtaining a kennel license from the City pursuant to the Zoning provisions of the City Code.
(Ord. No. 4.03, § 2.7, 3-21-1983, Amended 7-2-2012)

Sec. 10-36. Restrictions regarding behavior of dogs.

- (a) *Habitual Barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking or crying for repeated intervals of at least five minutes with less than one minute of interruption. Such barking or crying must also be audible off of the owner's or caretaker's premises. Repeated barking due to intentional provocation by an unrelated individual residing off the property of the owner is not considered habitual barking for the purposes of this ordinance, nor is barking related to a periodic external stimulus such as a non-domestic animal, machinery or unusual activity within the vicinity of the premises.
- (b) *Damage to Property.* It shall be unlawful for any person's dog or other animal to substantially damage any lawn, garden or other property (including animals), whether or not the owner has knowledge of the damage. Any animal causing damage to property may be impounded, or a complaint may be issued by any party aggrieved by an animal under this section, against the owner of the animal.
- (c) *Running at large.* It shall be unlawful for any owner or keeper of a dog, or the parents or guardians of any person under 18 years of age who owns a dog, to allow such dog to run at large at any time. All dogs must be leashed, tied, penned or fenced at all times.

(Ord. No. 4.03, § 2.1, 3-21-1983, Amended 7-2-2012)

Sec. 10-37. Dog waste and its removal.

(a) *Duty to dispose.* It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his dog on any sidewalk, street, park or other public area, or any other property owned by the city.

(b) *Method of removal and disposal.* For the purpose of this section, the means of removal shall be any tool, implement or other device carried for the purpose of picking up and containing such feces, unexposed to said person or the public. Disposal shall be accomplished by transporting such feces to a place suitable and regularly reserved for the disposal of human feces.

Sec. 10-38. Dogs in Heat

Any female dog in heat shall be confined in a building or other enclosure in such manner that it cannot come in contact with another dog except for planned breeding.
(7-2-2012)

Sec. 10-39. Dangerous and Potentially Dangerous Dogs.

(a) *Adoption by Reference of State Law and County Ordinance.* The provisions of Minnesota State Statutes Chapter 347 (§347.50-347-565) and Wright County Ordinance No. 10-01, as they may be amended from time to time, are hereby adopted by reference as fully as if set out herein, and shall be administered and enforced by Animal Control Officials as identified and designated pursuant to that law and ordinance.

1. *Conflict of Laws.* When any provisions of this ordinance, county ordinance or state laws applicable to dangerous or potentially dangerous dogs are in conflict, the provisions that impose the greater restrictions or protections shall apply.
2. *Penalty.* Any person who violates this ordinance, county ordinance or state law applicable to dangerous and potentially dangerous dogs shall be guilty of a misdemeanor.
(7-2-2012)

Secs. 10-40--10-62. Reserved.

DIVISION 2.

LICENSE

Sec. 10-63. License required; fee.

It shall be unlawful for any person to own, keep or harbor any dog or dogs over four months of age within the corporate limits of the city without have obtained a license therefore as herein provided. The fee shall be as established by the city for a nontransferable license.
(Ord. No. 4.03, § 3.1, 3-21-1983; Ord. of 4-8-1988, § 3.1)

Sec. 10-64. Date of payment of license fee; method of licensing.

It shall be the duty of the owner of a dog required to be licensed to pay to the city clerk-treasurer the prescribed fee within five days of acquiring ownership or possession of an unlicensed dog, or within ten days of establishing residence in the city. When applying for a dog license, the owner shall state the name, sex, breed, and color of the dog and proof of rabies vaccination for which the licensed is to be procured. To be accepted the certificate of vaccination must show on its face the effective vaccination period and be executed by a doctor qualified to practice veterinary medicine in the state in which the animal is vaccinated.
(Ord. No. 4.03, § 3.3, 3-21-1983; Ord. of 4-8-1988, § 3.3)

Sec. 10-65. Receipts and tags.

Upon payment of the required fee, the city clerk-treasurer, or other authorized person, shall execute a receipt, in duplicate, showing the name and place of residence of the person to whom issued, and the number of the dog tag delivered to such person. The city clerk-treasurer shall procure a sufficient number of suitable tags, which are consecutively numbered. One tag per dog licensed will be issued to the person paying the fee. The owner shall affix the tag by a permanent fastening to the collar of the dog so licensed, in such a manner that the tag may be seen easily, and the tag shall be worn constantly by such dog.
(Ord. No. 4.03, § 3.4, 3-21-1983; Ord. of 4-8-1988, § 3.4)

Sec. 10-66. Duplicate tags.

When any dog tag is lost, a duplicate may be issued by the city clerk-treasurer upon presentation of a receipt showing the payment of the license fee. A fee in the amount established by the city council shall be paid for each such duplicate tag.

(Ord. No. 4.03, § 3.5, 3-21-1983; Ord. of 4-8-1988, § 3.5)

Sec. 10-67. Offenses involving tags.

It shall be unlawful to counterfeit, or attempt to counterfeit, the tag provided for in section 10-65, or to remove from any dog a tag legally placed upon it with the intent of placing it upon another dog, or to place such tag upon another dog. It shall be unlawful for any person to transfer any tag issued, or to place a tag upon any dog other than the one for which it was issued. No refunds shall be made on any dog license fee because of the removal of the dog from the city or because of the death of the dog.

(Ord. No. 4.03, § 3.6, 3-21-1983; Ord. of 4-8-1988, § 3.6)

ARTICLE III.

CHICKENS.

Sec. 10-93. Purpose.

The purpose of this article is to define standards that regulate the keeping of chickens in city limits while protecting the health, safety and welfare of the community.

Sec. 10-94. General provisions.

The following general provisions will govern the keeping of chickens in city limits.

- (a) There are to be no more than five (5) chickens for properties under ½ acre or ten (10) chickens for properties greater than ½ acre in size.
- (b) All chickens will be kept within an enclosure that complies with Sec. 10-95.
- (c) Chickens will be allowed free range only within fenced yards or within the chicken enclosures described in section 10-95.
- (d) No roosters are permitted.
- (e) There shall be no egg sales from residential properties.
- (f) Slaughtering and processing of chickens are prohibited in residential districts. Non-residential properties shall comply with the zoning requirements of the district in which they are located as they relate to processing of farm animals.
- (g) The keeping of chickens in city limits shall be prohibited without a city-issued permit and the payment of the required permitting fees. The permit should be readily available for review if so requested by law enforcement or other officials with authority to enforce this ordinance. Chicken permits are governed under Sec. 10-96.

- (h) Dead chickens must be disposed of according to the Minnesota Board of Animal Health rules which require chicken carcasses to be disposed of as soon as possible after death, usually within 48 to 72 hours. Acceptable methods of disposal include burial or off-site incineration, off-site rendering, or off-site composting. The city will not compost chicken carcasses.
- (i) The City Council may at its discretion appoint a Chicken Oversight Committee to be made up of community volunteers to review and respond to chicken complaints.

Sec. 10-95. Chicken enclosures.

All chicken enclosures shall comply with the following requirements.

- (a) Chickens will have a recommended shelter space of one (1) square foot per chicken.
- (b) Chicken enclosures will be constructed of home building materials and comply with any ordinances governing accessory structures and fencing.
- (c) Enclosures shall be fully enclosed to prevent any escape by chickens or entrance by migratory birds or predators.
- (d) Enclosures shall be kept clean and orderly.
- (e) Enclosures shall not be placed in the front yard or in a side yard that abuts a street. Enclosures shall not be placed closer than ten (10) feet to any property line and shall not be placed closer than twenty-five (25) feet to any dwelling unit other than on the owner's property.
- (f) Enclosures shall not be placed within any drainage or utility easement.
- (g) Screening and/or a hard surface may be required by the Zoning Administrator if problems occur with appearance, noise, odor, and sanitation.
- (h) Enclosures may not exceed one hundred twenty (120) square feet unless so authorized by an Administrative Permit.

Sec. 10-96. Chicken permits.

Property owners wishing to keep chickens at their property may apply for a required permit at City Hall. Permits shall expire February 1, 2022 unless otherwise extended by the City Council. Property owners will be required to pay the permit fees as established by the City Council in the Fee Schedule ordinance. The permit fee for keeping chickens shall be the same fee as dog licenses. Renters who wish to keep chickens may do so only if the property owner has a valid chicken permit for the property. The property owner shall remain liable for compliance with all provisions of this Article III.

The City of Clearwater reserves the right to revoke any chicken permit if there are excessive complaints or ordinance violations at a specific property. Owners whose permits are revoked under this provision may

appeal such revocation to the City Council upon written request. The City Council's decision will be final.

The City of Clearwater reserves the right to revoke or suspend all chicken permits and order removal of all chickens if a pandemic regarding fowl and poultry is declared by the state of Minnesota.

Sec. 10-97. Violations.

Violations of any provisions of this article may result in the revocation of the owner's Chicken Permit and a directive to the owner to remove all chickens from the premises. In addition, the City Council may levy fines for violations as established in the city's Fee Schedule ordinance. If the property owner still fails to bring the property into compliance after fines and permit revocation, the city may seek a court order to remove the chickens, and any costs associated with such action will be assessed to the property taxes of the property where the chickens were kept.

Sec. 10-98. Chicken Oversight Committee.

The City Council at its discretion may establish a Chicken Oversight Committee made up of community volunteers to assist with complaints the city receives under this Article III. The Chicken Oversight Committee may visit the property to determine if violations exist, work with the owner to remedy any violations, issue warnings, or refer the matter to city staff for further enforcement action under Sec. 10-97.

The Chicken Oversight Committee, if so appointed, will be considered volunteers of the city similar to other Boards and Commissions. There shall be no additional compensation for Committee members.

Sec. 10-99. Sunset Date

This Article III and the modifications to the definition of poultry which allow for the keeping of chickens in city limits shall expire on February 1, 2022, unless otherwise extended by the City Council prior to that date. If not so extended, these modifications, which are outlined in Ordinance 2020-02, shall be rescinded and chickens will not be allowed to be kept in city limits.