

ORDINANCE NO. 800

**AN ORDINANCE AMENDING CHAPTER 4 OF THE CITY OF BOX ELDER MUNICIPAL CODE
PERTAINING TO ANIMALS AND THE ALLOWANCE OF CHICKENS WITHIN CITY LIMITS**

WHEREAS, the City Council has determined that Chapter 4 of the Municipal Code should be amended to allow the keeping of chickens subject to the requirements established herein; and

WHEREAS, this ordinance supersedes and replaces all previous ordinances and resolutions hereto relating to the subject matter hereof; and

WHEREAS, new language shall be indicated by underscore and language to be deleted shall be indicated by strike-through.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Box Elder, South Dakota:

Section 1. Section 4-1 of the City of Box Elder Municipal Code is hereby amended to update existing definitions and include new definitions, to read as follows:

Section 4-1. Definitions.

Brooding Chicks means chickens under twelve (12) weeks of age being raised for replacement purposes.

Chicken means a domesticated chicken (Gallus gallus domesticus).

Coop means a covered structure intended to provide shelter for chickens.

Enclosure means a fence or enclosed area intended to confine chickens to a specific area of the property.

Fowl means a ~~chicken~~, duck, goose, guinea fowl, poultry, turkey, or other similar fowl, but does not include domesticated birds such as parrots, cockatoos, parakeets, or similar birds that are kept inside the home.

Hen means a female chicken.

~~Rolling 12-month period means any 12 consecutive months.~~

Rooster means any male chicken.

Section 2. Section 4-38 of the City of Box Elder Municipal Code is hereby amended to read as follows:

Section 4-38. Keeping of Fowl Restricted.

It is unlawful for any person to keep and/or raise, ~~chickens~~, ducks, geese or other domestic fowl, except chickens, in any house, pen, coop, enclosure or free-range within the city. This section does not permit the raising or keeping of the animals described where they are prohibited by zoning or other restrictive ordinances.

(Ord. No. 572, § 93.06.01, 2-6-2017)

Section 3. Section 4-40 of the City of Box Elder Municipal Code is hereby amended to read as follows:

Section 4-40. Pigeons Or ~~Fowl~~ Roosters.

No person shall keep or cause to be kept upon any premises within the city limits pigeons or fowl, as defined in the chapter. Domesticated pigeons that are found upon property within the city limits upon the effective date of the ordinance from which this chapter is derived, are allowed so long as they do not constitute a nuisance or create a hazard to public health and their loft area is kept at all times in a clean, neat, and sanitary condition that is free from substances that attract rodents or insects.

(Ord. No. 568, § 90.037, 11-1-2016)

Section 4. Section 4-45 is hereby enacted and included within the City of Box Elder Municipal Code and shall read as follows:

Section 4-45. Chickens.

Chickens may be kept within the city in accordance with the requirements of this section. No person shall keep chickens except as authorized by and in compliance with the provisions of this section.

(a) Chickens shall be permitted in the following zoning districts:

1. Agricultural (AG)
2. Rural Residential (RR)
3. Low-Density Residential (R-1)
4. Moderate-Density Residential (R-2)
5. High-Density Residential (R-4)
6. Mixed-Use District

- i. In the Mixed-Use District, chickens shall only be permitted where the residential use is detached and not located in the same building as a commercial use.
- (b) A permit shall be obtained prior to keeping chickens on a property, except on property zoned Agricultural or Rural Residential. The permit application shall include:
 1. The proposed number of chickens to be kept on the property.
 2. A site plan showing the location of any coop, enclosure, or fenced area intended for chickens;
 3. Written authorization from the property owner if the property is a rental property; and
 4. Written consent from the owners of all abutting occupied residential properties on a form prescribed by the Planning Director.
- (c) Upon determination that the applicant has satisfied the requirements of the permit application pursuant to Sec. 4-45(b), the City shall issue a permit. Permits issued under this section shall expire annually on January 31.
- (d) Permit Renewal. A permit issued pursuant to this section may be renewed annually upon submission of a renewal application to the City on a form prescribed by the City. The renewal application shall be submitted no later than thirty (30) days prior to the expiration of the current permit and shall affirm continued compliance with the requirements of this article. The written consent required by Section 4-45(b)(4) shall only be required for the initial permit application and shall not be required as a condition of renewal. Upon determining the applicant remains in compliance with all applicable requirements, the City shall renew the permit.
 1. If the renewal application is timely submitted, the existing permit shall remain in effect until the City has acted upon the application. If the renewal application is not submitted prior to the expiration of the permit, the permit holder shall cease all activities requiring the permit until a new permit has been issued.
 2. A permit issued under this section may be denied renewal for unresolved violations of this chapter or section.
- (e) Revocation. The Planning Director may, for good cause, revoke a permit issued under this section. Said revocation may be appealed in accordance with Municipal Code § 2-385 et.seq. For purposes of this section, good cause is defined as non-compliance with any of this section's provisions.
- (f) The following maximum number of chickens shall be permitted:
 1. Lots less than one (1) acre: six (6) chickens
 2. Lots one (1) acre or greater, but less than three (3) acres: twelve (12) chickens.
 3. Lots three (3) acres or greater: twenty-four (24) chickens.

4. Regardless of lot size, up to six (6) brooding chicks may be kept for replacement purposes provided such chicks are not older than twelve (12) weeks of age and the total number of chickens permitted on the property is not permanently exceeded.
- (g) Coops, enclosures, and fenced areas intended for chickens shall not be located:
1. Within any easement;
 2. Within a designated floodway;
 3. In a front yard or side yard; or
 4. Within fifteen (15) feet of an adjacent property line.
- (h) Chickens shall not be permitted to roam freely outside of a coop, enclosure, or fenced area, except for on a property zoned Agricultural or Rural Residential.
- (i) Coops and enclosures shall:
1. Be fully enclosed and constructed to prevent access by rodents, predators, and other animals;
 2. Be maintained in good repair and sanitary condition;
 3. Provide adequate ventilation and protection from weather conditions;
 4. Provide a minimum of two (2) square feet of coop area per chicken; and
 5. Provide a minimum of ten (10) square feet of enclosure area per chicken.
- (j) Feed and water for chickens shall be maintained in a manner that minimizes access by rodents, wild animals, and predators. Feed shall be stored in sealed rodent resistant containers.
- (k) The city may inspect a property to determine compliance with this section.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such inconsistency.

Section 6. If any section, clause or phrase shall be held unconstitutional or invalid, it shall not affect the balance of this ordinance.

PASSED AND APPROVED ON FIRST READING this ____ day of _____, 20__.

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 20__.

ATTEST:

Larry Larson, Mayor

Chaz Kokesh, City Clerk

(SEAL)

Published: _____

ATTESTATION

I, Chaz Kokesh, the City Clerk of the City of Box Elder, South Dakota, do hereby attest and state the above resolution was published in the manner required by law and that all procedures required by the State of South Dakota law were complied with. This resolution shall become effective on _____.

Chaz Kokesh, City Clerk