

ORDINANCE NO. 833

AN ORDINANCE OF THE CITY OF DESHLER, NEBRASKA PROVIDING FOR THE CONTROL OF FOWL WITHIN THE MUNICIPALITY; ESTABLISHING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING FOR AN EFFECTIVE DATE OF SAID ORDINANCE; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DESHLER, NEBRASKA AS FOLLOWS:

Section 1. §6-211 of the Deshler Municipal Code shall hereafter provide as follows:

§6-211 Fowl, Controlled Within Municipality; Permit Process.

- A. Except as permitted by subsection E of this ordinance, it shall be unlawful for any person, corporation, firm, or other entity, in the capacity of owner, occupant, lessee, mortgagee, or agent thereof to keep or maintain, within or without the corporate limits of Deshler, Nebraska, any chickens, ducks, geese, turkeys, pheasants, quail, ostriches, or any other similar fowl within three hundred feet (300') of any residence, dwelling, business house, or commercial structure located within said corporation limits.
- B. The keeping or maintain of such fowl as described in Section A above shall be considered to be a specific nuisance, in addition to those identified in section 4-402 of the Deshler Municipal Code, and may be abated in accordance with the provisions of Section 4-403 of said Municipal Code.
- C. In addition to the abatement procedure identified in subsection B above, the Mayor and City Council shall be authorized to maintain an action for abatement of such activity in the District Court of Thayer County, Nebraska, against the owner, occupant, lessee, mortgagee, or agent thereof, who is deemed to be in violation of subsection A of this section. Such action is authorized under the powers granted to second class cities pursuant to the provisions of section 17-123 of the Revised Statutes of the State of Nebraska.
- D. Furthermore, any owner, occupant, lessee, mortgagee, or agent thereof, who shall violate or refuse to comply with the provisions of subsection A of this section, or the enforcement thereof, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.00 for every offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (Ord. No. 492, 12/6/94).

- E. Notwithstanding the above provisions of this ordinance, the raising of hen chickens within the municipality may be permitted, subject to compliance with the following conditions:
1. Any person desiring to keep hen chickens in the City of Deshler or its zoning jurisdiction shall obtain a permit from the City prior to acquiring the hen chickens. Application shall be made to the City Clerk and the fee for the permit shall be \$25.00, or as determined by Council resolution. The application shall be in writing on a form to be furnished by the City Clerk for that purpose.
 2. The application shall be made pursuant to the procedures and requirements that are applicable at the time the person applies for a new permit, which shall include:
 - a. Name and residence of the applicant;
 - b. Location of premises where hen chickens are to be kept;
 - c. Species of hen chickens to be kept;
 - d. Statement of the method in which offal, manure and waste material accumulating from such hen chickens will be sanitarly disposed of;
 - e. An attached diagram or plat of premises, showing dimensions of premises, the location and dimensions of the enclosure, and the distance from residence buildings, and property lot line, on the same lot and on adjacent property.
 3. Any applicant for such permit, shall, at least ten (10) days prior to the action thereon by the City Council, give notice of the pendency of said application to all owners of property abutting the proposed location of the proposed covered enclosure or fenced enclosure, and to all owners of residences within one hundred (100) feet of said location, and furnish proof of said notice to the City Council. The notice required by this section may be served personally or by mailing
 4. Prior to the issuance of any permit for the keeping of hen chickens, the City Clerk shall have a proper investigation completed by City personnel of the facts set forth in the application for the permit and determine

whether said premises conform to the requirements of this chapter and other ordinances of the city with respect to zoning and building regulations, sanitation, and location of enclosures and shelters. No permit shall be issued by the City Clerk, after initial approval by the City Council, until proper facilities shall be provided for the care and protection of the hen chickens to be cared for on the premises and the location of the premises is deemed to be proper and suitable for the keeping of such hen chickens and the application has been approved as to proper zoning.

5. Permits expire and become invalid one (1) year after date of issuance. A person who wishes to continue keeping hen chickens shall have obtained a new permit on or before the expiration date of the previous permit. No permit shall be assignable or transferable either as to permittee, location, or species of animal.
6. A person who keeps or houses hen chickens on his or her property shall comply with all of the following requirements:
 - i. No more than 6 hen chickens may be kept on any one zoning lot.
 - ii. The principal use of the property shall be a single-family dwelling.
 - iii. No person shall keep hen chickens on a vacant or uninhabited tract of land.
 - iv. No person shall keep any rooster.
 - v. No person shall slaughter any hen chickens within view of the general public.
 - vi. The hen chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Hen chickens shall be secured within a covered enclosure during non-daylight hours. Such covered enclosure or coop shall contain at least 4 square feet of floor area per hen chicken, and the fenced enclosure shall provide at least 10 square feet of open area per hen chicken; no coop shall exceed 120 square feet of floor area or exceed 12 feet in height.
 - vii. A person shall not keep hen chickens in any location on the property other than in the rear yard. For purposes of this section, "rear yard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot

lines intersect with an imaginary line established by the rear of the dwelling and extending to the side lot lines.

- viii. No covered enclosure or fenced enclosure shall be located closer than 10 feet to any property line of an adjacent property.
- ix. All enclosures for the keeping of hen chickens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. A covered enclosure or fenced enclosure shall not be located closer than 40 feet to any residential structure on another person's property.
 - (1) A covered enclosure shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird proof wire of less than one (1) inch openings.
 - (2) The materials used in making a covered enclosure shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal, or similar materials is prohibited. Covered enclosures shall be well maintained.
 - (3) Any enclosed chicken pen shall consist of sturdy wire fencing. The pen must be covered with wire, aviary netting, or solid roofing.
- x. All feed and other items associated with the keeping of hen chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
- xi. Odors from chickens, chicken manure or other chicken related substances shall not be perceptible beyond the boundaries of the permitted tract of land.
- xii. Noise from chickens shall not be loud enough beyond the boundaries of the permitted tract of land at the property boundaries to disturb persons of reasonable sensitivity.

xiii. The Permittee shall not allow the Permittee's chickens to roam off the permitted tract of land. No dog or cat or other domesticated animal which kills a chicken off the permitted tract of land will, for that reason alone, not be considered a dangerous or aggressive animal or the city's responsibility to enforce its animal control provisions.

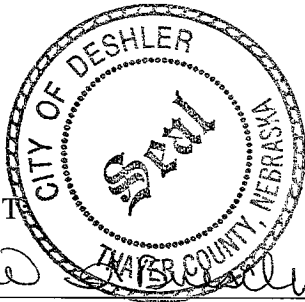
F. Any violation of a provision of this subsection (§6-211, E 1-6) shall subject the violating party to the penalties identified above in § 6-211 B, C, and D and , in addition, the City may revoke any permit granted under this section.

G. A person who has been issued a permit shall submit the premises so licensed, for inspection upon request by any Police Officer or Code Enforcement Officer of the Municipality.

Section 2. This ordinance shall be effective from and after its passage and publication as provided by law.

Section 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

PASSED AND APPROVED this 5th day of February, 2013.



ATTEST

Julie Buescher

Julie Buescher
City Clerk

Naomi Grupe
Naomi Grupe
Mayor