

ORDINANCE NO. 650

AN ORDINANCE AMENDING CHAPTER 8.02.020 OF THE MUNICIPAL CODES TO PROVIDE REGULATION OF DOMESTIC FOWL WITHIN THE CITY LIMITS AND ESTABLISHING A LICENSING SCHEME AND FEE THEREFOR:

Whereas, the City Council of the City of Polson desires to provide the citizens with an opportunity to maintain domestic chickens within City limits, for the health and welfare of the public and of the environment; and,

Whereas, the Council has caused the question to be investigated and public comment pertinent thereto heard; and,

Whereas, taking into consideration the public comment, and under its general police powers, the Council desires hereby to amend the Polson Municipal Code to provide regulation for certain domestic fowl within City limits, and to establish a licensing scheme and a fee therefor:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLSON, MONTANA:

1. Chapter 8.02.020 is amended in whole as follows:

“It is hereby made and declared unlawful and a nuisance for any hogs, cattle, sheep, swine, goats, turkeys, ducks, geese, or other domestic animals or fowl excepting household pets and excepting chickens kept in accordance with this code, to be kept within the corporate limits of the city and any such animals or fowl so kept within the city are hereby declared to be a nuisance and violative of this chapter and the continuation of the same shall be regarded as a separate offense for each day the nuisance is maintained to be punished as such separate offense.”

2. Chapter 8.02.024 is hereby added to the Polson Municipal Code, as follows:

“Chickens Within City Limits. Domestic chickens may be maintained within the corporate limits of the City of Polson only if kept in accordance with this chapter.

- (a) Chickens must be kept on a single-family parcel; however, chickens may be kept on a parcel under one ownership with more than one dwelling if all residents and the owner consent in writing to allow the chickens on the property. When chickens are kept on a multi-dwelling parcel the owner of the chickens shall keep a copy of the signed approval document.
- (b) Chickens kept pursuant to this chapter shall be provided with a covered, predator-proof chicken house that is thoroughly ventilated, of sufficient size to admit free movement of the chickens, designed to be easily accessed, cleaned and maintained by the owners and be at least 2 square feet per chicken in size. Enclosures that exceed the City’s minimum requirements for a building location permit as the same now exist or may later be amended must apply for such permit and pay applicable fees.
- (c) No chicken house shall be located closer than 20 feet from any residential structure occupied by someone other than the chicken owner, custodian, or keeper.
- (d) The chickens shall be shut into the chicken house at night, from sunset to sunrise.
- (e) During daylight hours the adult chickens shall have access to the chicken house and, weather permitting, shall have access to an outdoor enclosure on the subject property, adequately fenced to contain the chickens and to prevent access to the chickens by dogs and other predators.
- (f) Stored feed must be kept in a rodent and predator proof container

- (g) It is unlawful for the owner, custodian, or keeper of any chicken to allow the animal(s) to be a nuisance to any neighbors, including but not limited to: noxious odors from the animals or their enclosure or and noise of a loud and persistent and habitual nature. The City will determine whether or not a nuisance exists on a case-by-case basis, and the complaint of two or more neighbors shall be strong evidence of a nuisance.
- (h) In the event of a signed complaint of a possible violation, Animal Control or the Building Department will investigate, determine if a violation exists and when appropriate leave a notice of violation and order to take corrective action with the owner, custodian or keeper and provide them with written notice of the violations that require correction and a designated time period to correct, which shall not exceed two weeks. Animal Control or the Building Department will revisit the owner's address after the notice of violation is issued and the designated time period has elapsed. If the owner, custodian or keeper has failed to comply with the ordinance, the City may issue a citation to the owner, custodian or keeper for failure to comply with the applicable requirements of this chapter. Three such citations shall constitute grounds to require the owner, custodian, or keeper to remove chickens and any related structures or food stores, and failure to remove shall constitute an additional and separate offense for each day the nuisance is maintained.
- (i) If an owner, custodian or keeper has a parcel or parcels that may support additional chickens, such person may apply to the Building Department for written permission to keep additional chickens. The fee for such application shall be \$50.00. The Building Department will assess the site and issue a determination as to the number of additional chickens appropriate to such site.
- (j) No fee will be collected for up to a total of six chickens; however, owners, custodians, or keepers of any chickens are required to file a notice with the Building Department for the purpose of recordkeeping and future statistical analysis prior to installing any chickens under this chapter.
- (k) No part of this chapter shall be construed to allow the keeping of adult roosters.
- (l) The City assumes no liability for any claim that may arise from the citizen's exercise of the privilege recited herein.

REPEALING CLAUSE: All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

FIRST READING: October 19, 2009. **SECOND READING:** November 2, 2009.

NOW, THEREFORE, the foregoing Ordinance shall become effective on December 2, 2009.

PASSED AND ADOPTED THIS second day of November, 2009.

CITY OF POLSON

Lou Marchello, Mayor

ATTEST: _____
Aggi Loeser, City Clerk