

Order 152-08/09

Given first reading 2/2/09 Public hearing & Passage 2/18/09 7-1

(Coyne opposed: Leeman absent)

JILL S. DUSON (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
DANIEL S. SKOLNIK (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN COYNE (5)
JOHN M. ANTON (A/L)
DORY WAXMAN (A/L)
NICHOLAS M. MAVODONES (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 5, ARTICLE IV
KEEPING OF DOMESTICATED CHICKENS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

That Chapter 5, Article IV is hereby enacted to read as follows:

ARTICLE IV. KEEPING OF DOMESTICATED CHICKENS

Sec. 5-400. Purpose

The purpose of this article is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to keep a small number of female chickens on a non-commercial basis while creating standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.

Sec. 5-401. Permit Required

(a) An annual permit is required for the keeping of any domesticated chickens. The annual permit is personal to the permittee and may not be assigned.

(b) The fee for an annual permit to keep chickens is twenty-five dollars (\$25.00).

(c) An applicant for a permit to keep chickens must demonstrate compliance with the criteria and standards in this Article in order to obtain a permit.

Sec. 5-402. Number and Type of Chickens Allowed

(a) The maximum number of chickens allowed is six (6) per lot regardless of how many dwelling units are on the lot.

(b) Only female chickens are allowed. There is no restriction on chicken species.

Sec. 5-403. Non-Commercial Use Only

Chickens shall be kept as pets and for personal use only; no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes. The slaughtering of chickens is prohibited.

Sec. 5-404. Enclosures

(a) Chickens must be kept in an enclosure or fenced area (chicken pen) at all times during daylight hours. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact. The chicken pen must provide adequate sun and shade and must be impermeable to rodents, wild birds, and predators, including dogs and cats. It shall be constructed with sturdy wire fencing buried at least 12" in the ground. The pen must be covered with wire, aviary netting, or solid roofing. The use of chicken wire is not permitted.

(b) Chickens shall be secured within a henhouse during non-daylight hours.

(1) Any henhouse shall be at least 25 feet from any residential structure or any other premises on any adjacent lots. The structure 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. The use of scrap, waste board, sheet metal, or similar materials is prohibited. The henhouse must be well-maintained.

(2) Henhouses shall only be located in rear yards, and shall meet zoning setbacks applicable to detached accessory structures. For a corner lot or other property where no rear yard exists, a side yard may be used as long as the setbacks for structures generally applicable in the zoning district are met. In no case

may a henhouse be placed in the front yard. Henhouses are not allowed to be located in any part of a home.

Sec. 5-405. Odor and Noise Impacts

- (a) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.
- (b) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

Sec. 5-406. Lighting

Only motion-activated lighting may be used to light the exterior of the henhouse.

Sec. 5-407. Predators, Rodents, Insects, and Parasites

The property owner and/or chicken owner shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation may be removed by the City, through the Animal Control Officer, or any other designee, and the cost of the same shall be borne by the property owner and/or chicken owner.

Sec. 5-408. Feed and Water

Chickens must be provided with access to feed and clean water at all times; such feed and water shall be unavailable to rodents, wild birds and predators.

Sec. 5-409. Waste Storage and Removal

Provision must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed container. No more than one, twenty gallon container of manure shall be stored on any one property housing chickens. All other manure shall be removed. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

Sec. 5-410. Fees for Reinspections

Following the City's issuance of a notice of violation of the requirements hereunder and an order to correct violations, the City will reinspect at the expense of seventy five dollars (\$75.00) to the property owner and/or chicken owner to determine whether the violations have been fixed in compliance with this Article. Failure to correct the violation shall result in a penalty imposed pursuant to Sec. 4-411 below in addition to the reinspection fee. If the violations have not been fixed in compliance with this chapter, the violator shall be assessed a reinspection fee of one hundred and fifty dollars (\$150.00) for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property of the violator and the assessment and lien shall be collected and enforced pursuant to section 1-16.

Sec. 5-411. Penalty

In addition to any other enforcement action which the City may take, violation of any provision of this article shall be a civil violation and a fine of one-hundred dollars (\$100.00) may be imposed. Each day that a violation continues will be treated as a separate offense. This penalty is in addition to any expense for reinspection of the property.

Sec. 5-412. Revocation of Permit

A permit to keep chickens may be revoked where there is a risk to public health or safety or for any violation of or failure to comply with any of the provisions of this article or with the provisions of any other applicable ordinance or law.

Sec. 5-413. Removal of Chickens

In addition to the penalty stated in §4-411, any violation of the provisions of this article shall be grounds for an order from the City to remove the chickens and the chicken-related structures.

The Health Inspector, Health Officer, or Animal Control Officer may order the removal of the chickens upon a determination that the chickens pose a health risk.

If a chicken dies, it must be disposed of promptly in a sanitary manner.

Sec. 5-414. Separability

In the event that any section, subsection or portion of this article shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this article.

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| Sec. 5-415 | Reserved. |
| Sec. 5-416. | Reserved. |
| Sec. 5-417. | Reserved. |
| Sec. 5-418. | Reserved. |
| Sec. 5-419. | Reserved. |
| Sec. 5-420. | Reserved. |
| Sec. 5-421. | Reserved. |
| Sec. 5-422. | Reserved. |
| Sec. 5-423. | Reserved. |
| Sec. 5-424. | Reserved. |
| Sec. 5-425. | Reserved. |