

CHAPTER 94: ANIMALS

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§ 94.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

(1) **DOMESTIC ANIMALS.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, chickens (refer to §§ 94.30 *et seq.*), non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) **FARM ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (pheasants, turkeys [refer to §§ 94.30 *et seq.*]), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

(3) **NON-DOMESTIC ANIMALS.** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

CAT. Both the male and female of the felidae species commonly accepted as domesticated household pets.

COMMERCIAL KENNEL. A place where four or more dogs or four or more cats are kept or housed for commercial use of the property owner or occupant.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

PRIVATE KENNEL. A place where four or more dogs or four or more cats over the age of six months are kept or housed for the sole non-commercial use, benefit or enjoyment of the property owner or occupant. The owner of a private kennel also must be a Byron resident.

RELEASE PERMIT. A permit issued by the Animal Control Officer or other person in charge of the veterinarian hospital, clinic or kennel for the release of any animal that has been taken to the veterinarian hospital, clinic or kennel. A release permit may be obtained upon payment of a fee to the City Administrator, or his or her designee, in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established by the City Council, and may be amended from time to time.

(Am. Ord. - -, passed 5-23-07; Am. Ord. - -, passed 9-27-12)

§ 94.02 DOGS AND CATS.

(A) *Running at large prohibited.* It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited."

(B) *License required.*

(1) All dogs and cats over the age of six months kept, harbored, or maintained by their owners in the city, shall be licensed and registered with the city. Animal licenses shall be issued by the City Administrator, or his or her designee, upon payment of the license fee as established by the City Council, and as amended from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog or cat owned or kept by him or her. No license shall be granted for a dog or cat that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog or cat is vaccinated.

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(2) It shall be the duty of each owner of a dog or cat subject to this section to pay to the City Administrator, or his or her designee, the license fee established in the City Council, and as amended from time to time.

(3) Upon payment of the license fee as established by City Council, and as that ordinance may be amended from time to time, the City Administrator, or his or her designee, shall issue to the owner a license certificate and metallic tag for each dog or cat licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog or cat with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case an animal tag is lost or destroyed, a duplicate shall be issued by the City Administrator, or his or her designee. A charge shall be made for each duplicate tag in an amount established by the City Council, and as amended from time to time. Animal tags shall not be transferable from one animal to another and no refunds shall be made on any animal license fee or tag because of death of an animal or the owner's leaving the city before the expiration of the license period.

(4) The licensing provisions of this division (B) shall not apply to dogs or cats whose owners are non-residents temporarily within the city, nor to dogs or cats brought into the city for the purpose of participating in any animal show, nor shall this provision apply to "seeing eye" dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.

(5) The funds received by the City Administrator, or his or her designee, from all animal licenses and metallic tags fees as established by the City Council, and as amended from time to time, shall first be used to defray any costs incidental to the enforcement of this chapter; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs or cats.

(C) Vaccination.

(1) All dogs and cats kept harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:

- (a) Rabies - with a live modified vaccine; and
- (b) Distemper.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Administrator, or his or her designee, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate of vaccination for the animal. In cases where certificates are not presented, the owner or keeper of the animal shall have seven days in which to present the certificate to the City Administrator, or his or her designee, or officer. Failure to do so shall be deemed a violation of this section.

(Am. Ord. - -, passed 5-23-07) Penalty, see § 94.99

§ 94.03 NON-DOMESTIC ANIMALS.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Penalty, see § 94.99

§ 94.04 FARM ANIMALS.

Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least ten acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

§ 94.05 IMPOUNDING.

(A) *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or police officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

(B) *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in a veterinarian hospital, clinic or kennel for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital, clinic or kennel of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof

of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

(C) *Reclaiming.* All animals conveyed to the veterinarian hospital, clinic or kennel shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a "Dangerous Animal" as defined under § 94.11 in which case it shall be kept for seven regular business days or the times specified in § 94.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the veterinarian hospital, clinic or kennel, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by the City Council, and as amended from time to time.

(2) Payment of maintenance costs, as provided by the veterinarian hospital, clinic or kennel, per day or any part of day while animal is in the veterinarian hospital, clinic or kennel; and

(3) If a dog is unlicensed, payment of a regular license fee as established by the City Council, and as amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

(D) *Unclaimed animals.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Administrator, or his or her designee.

(Am. Ord. - -, passed 5-23-07) Penalty, see § 94.99

§ 94.06 KENNELS.

(A) *General requirements.*

(1) *License required.* No person shall maintain a private or commercial kennel in the city without a license.

(2) *License application.* Application for a kennel license shall be made on forms provided by the city. The application shall contain:

(a) A description of the property to be used; and

(b) The name(s) and address(es) of the owner(s).

(3) *Application fees, license fee and license year.* The application fee and license fee shall be established every year with the City Council Fee Schedule. The application fee shall be paid when the application is filed.

(4) *Granting or denial of license.* Prior to the issuance of a private kennel license, the applicant will provide a complete application as well as any other information that is deemed pertinent at the time of submittal.

(a) Private kennel licenses do not confer any property rights upon the licensee, and the issuance of said licenses does not ensure that future licenses will be granted.

(b) Kennel licenses will be issued for a set number of dogs and/or cats, which shall not be exceeded. Licensees who wish to add dog(s) or cat(s) shall need to reapply for a kennel license. Licensees who relocate to another area of the city shall need to reapply for a kennel license. Licenses are not assignable to other parties.

(c) The initial term for a kennel license shall be one year; subsequent licenses, if so granted, will be for a term of up to three years.

(d) Licenses authorize city staff to perform periodic, random inspections of the kennel for the purpose of determining compliance with the conditions of their license.

(B) *Conditions for issuance of a private kennel license.* The following conditions are mandatory for the issuance of a private kennel license:

(1) The applicant shall have no previous animal or kennel violations.

(2) Housing enclosures shall be located so as not to create a nuisance and shall not encroach upon any setback area.

(3) Dogs shall be confined to their own property by a provable means.

(4) Housing and shelter must be provided which will keep animals comfortable and protected from the elements.

(5) All accumulation of feces shall be removed at such periods as will ensure that no leaching or objectionable odors exist, and the premises shall not be allowed to become unsightly.

(6) All dogs and cats shall have access to indoor housing from the hours of 10:00 p.m. through 6:00 a.m.

Byron - General Regulations*(7) Regulations applicable to the site's animal quarters.*

(a) Indoor housing facilities must be structurally sound with ample heat, light and ventilation.

(b) Animals kept outside must have continual access to the shelter so as to be protected from the elements as necessary.

(c) If animals are confined by chains, such chains must be attached so as to not become entangled with chains of other animals.

(d) Individual animal enclosures must be of a size to allow each dog to turn fully around, stand, sit and lie in a comfortable condition.

(e) The temperature of indoor housing facilities shall not be less than 50° F. for dogs not accustomed to lower temperatures.

(f) Disposal facilities shall be provided to minimize virus infestation, odors and disease hazards.

(g) Adequate storage and refrigeration shall be provided to protect food supplies against contamination and deterioration.

(h) City staff reserves the right to issue additional conditions on a case basis in order to maintain the public repose.

(C) Conditions for a commercial kennel license.

(1) *License required.* No person shall maintain a commercial kennel in the city without a license.

(2) *License application.* Application for a commercial kennel license shall be made on forms provided by the city. The application shall contain:

(a) A description of the property to be used;

(b) The names and addresses of the owner, lessee (if any) and the operator or manager;
and

(c) The names, addresses and phone numbers of those persons who will from time to time be designated as a contact person.

(3) If the application is made on behalf of a corporation or partnership, it shall be accompanied by appropriate business records showing the names and addresses for all individuals having an interest

in the business and, in the case of a corporation, the names and addresses of all officers. Applicants shall furnish to the city, along with their application, documents establishing the applicants' interest in the premises on which the business will be located. Documentation shall be in the form of a lease, a deed, a contract for deed or any other document which establishes the applicants' interest.

(4) *Application fees, license fee and license year.* The application fee and license fee shall be established every year with the City Council Fee Schedule. The application fee shall be paid when the application is filed. a separate license shall be obtained for each place of business. The licensee shall display the license in a prominent place in the licensed business at all times. Licenses shall expire on the December 31 following the issuance of the license. Applications to renew an existing license must be submitted by December 1.

(5) *Granting or denial of license.* Prior to issuance of a kennel license from the City Council, a hearing before the Planning Commission must be held. Notice must be given to all affected property owners within 350 feet of the parcel upon which the kennel is proposed, and published in the city's official newspaper at least ten days before the meeting. the Planning Commission will make a recommendation to the City Council on the request.

(a) Kennel licenses will be issued for a set number of dogs and/or cats, which shall not be exceeded. Licensees who wish to add dog(s) or cat(s) shall need to reapply for a kennel license. Licensees who relocate to another area of the city shall need to reapply for a kennel license. Licenses are not assignable to other parties.

(b) The initial term for a kennel license shall be one year; subsequent licenses, if so granted, will be for a term of up to three years.

(c) Licenses authorize city staff to perform periodic, random inspections of the kennel for the purpose of determining compliance with the conditions of their license.

(6) In addition to the private kennels requirements listed above in this chapter, commercial kennels shall also operate according to the following rules and regulations:

(a) The licensed facility must at all times have a designated contact person available. The designated contact person must be available to correct and mitigate violations of this chapter whenever they occur. The licensee shall notify the city in writing of the designated contact person, along with contact information. The licensee shall notify the city in writing of any change in the contact person.

(b) Housing enclosures for dogs and cats shall be 200 feet from any neighboring residential structure used for human habitation.

(c) No commercial kennel shall be issued for a lot smaller than one acre.

(d) All dogs and cats shall be housed indoors when the commercial kennel employee(s) is/are not present at the subject property.

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(e) Facility employees shall ensure that dogs are not allowed to create noise in violation of the city code. When a citizen complaint is received, facility employees must take steps to reduce animal noise including, but not limited to, bringing dogs to indoor areas.

(f) Outdoor exercise confinement areas (dog runs) shall be screened and buffered.

(g) All commercial kennel licensees, when accepting animals for boarding, shall require from the animal owner evidence of rabies vaccination.

(E) *Applicable to all kennel licenses.*

(1) *Revocation of kennel licenses.*

(a) Upon observation that one or more of the conditions issued by the City Council on a private or commercial kennel license is not observed, the city will notify the licensee that the city intends to revoke the private or commercial kennel license. A hearing will be held before the Planning Commission will be held prior to making a final decision. A recommendation to the City Council to revoke a private kennel license will require a majority of those members present and voting.

(b) Upon evidence that the decision of the City Council has not been followed by the licensee, the city will arrange for the animal(s) to be picked up. All costs associated with compliance will be billed to the real property owner where the animal resides. All unpaid bills will be placed as a lien on the property.

(2) *Exceptions to requirements to the number of dogs.* Animals which have been specifically trained and certified to perform certain tasks, such as for handicapped individuals, police K-9 units, search-and-rescue, and other designated service animals.

(Am. Ord. - -, passed 5-23-07) Penalty, see § 94.99

§ 94.07 NUISANCES.

(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 for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(B) *Damage to property.* It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

(C) *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.

(D) *Warrant required.* The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the animal.

(E) *Other.* Any animals kept contrary to this section are subject to impoundment as provided in § 94.05.

Penalty, see § 94.99

§ 94.08 SEIZURE OF ANIMALS.

Any police officer or Animal Control Officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal, provided that the following exist:

(A) There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 94.07(A); the criteria for cruelty set out in § 94.13; or the criteria for an at large animal set out in § 94.01;

(C) The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

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(D) The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignored;

(E) The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the animal. If the officer has the permission of the owner, a property manager, landlord, innkeeper, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

(Am. Ord. - -, passed 5-23-07)

§ 94.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the veterinarian hospital, clinic or kennel for confinement under § 94.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian fees. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 94.05(C).

(Am. Ord. - -, passed 5-23-07)

§ 94.10 DISEASED ANIMALS.

(A) *Running at large.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section, and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the veterinarian hospital, clinic or kennel by any person, the Animal Control Officer or a police officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall

properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

(Am. Ord. - -, passed 5-23-07) Penalty, see § 94.99

§ 94.11 DANGEROUS ANIMALS.

(A) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(B) *Destruction of dangerous animal.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

(C) *Definitions.* For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) ***DANGEROUS ANIMAL.*** An animal which has:

(a) Without provocation, inflicted substantial bodily harm on a human being on public or private property;

(b) Killed a domestic animal without provocation while off the owner's property; or

(c) Been found to be potentially dangerous, and after the owner has notice that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) ***POTENTIALLY DANGEROUS ANIMAL.*** An animal which has:

(a) When unprovoked, inflicted bites on a human or domestic animal on public or private property;

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(b) When unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the animal owner's property in an apparent attitude of attack; or

(c) Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(3) **PROPER ENCLOSURE.** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) Have a minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11.5-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1 ¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

(4) **UNPROVOKED.** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(D) *Designation as potentially dangerous animal.* The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) *Evidence justifying designation.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(F) *Authority to order destruction.* The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(G) *Procedure.* The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

(2) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Administrator's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer. If the owner does not immediately make the animal available, the Animal Control Officer shall

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obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

(3) No person shall harbor an animal after it has been found to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any. If the animal is to be relocated within Byron city limits the same requirements for housing a dangerous animal must be observed.

(Am. Ord. - -, passed 5-23-07) Penalty, see § 94.99

§ 94.12 DANGEROUS ANIMAL REQUIREMENTS.

(A) *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 94.11(C)(3);

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in M.S. § 347.51 as may be amended from time to time;

(3) Provide and show proof annually of a surety bond in the minimum amount of \$50,000;

(4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51, as it may be amended

from time to time, and shall have a microchip implant as provided by M.S. § 347.151, as it may be amended from time to time;

(6) If the animal is a cat or dog, the animal must be licensed and up-to-date on rabies vaccination. If the animal is a ferret, it must be up-to-date with rabies vaccination.

(B) *Seizure.* As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(C) *Reclaiming animals.* A dangerous animal seized under § 94.12(B), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under § 94.12(B), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under § 94.11(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

(D) *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under § 94.11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 94.11(F). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 94.12(C). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 94.11(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

(Am. Ord. - -, passed 5-23-07)

§ 94.13 BASIC CARE.

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating his or her pet in a humane manner will be subject to the penalties provided in this section.

(Am. Ord. - -, passed 5-23-07)

§ 94.14 BREEDING MORATORIUM.

Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat except for planned breeding.

(Am. Ord. - -, passed 5-23-07)

§ 94.15 ENFORCING OFFICER.

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

(Am. Ord. - -, passed 5-23-07)

§ 94.16 VETERINARIAN HOSPITAL, CLINIC OR KENNEL.

Every year the Council shall designate an official veterinarian hospital, clinic or kennel to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

(Am. Ord. - -, passed 5-23-07)

§ 94.17 INTERFERENCE WITH OFFICERS.

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the veterinarian hospital, clinic or kennel while engaged in that operation. Nor shall any unauthorized person break open the veterinarian hospital, clinic or kennel, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

(Am. Ord. - -, passed 5-23-07) Penalty, see § 94.99

URBAN CHICKENS**§ 94.30 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BROODING . The period of chicken growth when supplemental heat must be provided, due to the bird's inability to generate enough body heat.

CHICKEN. A domesticated bird that serves as a source of eggs.

COOP. The structure for the keeping or housing of chickens permitted by the subchapter.

EXERCISE YARD. A larger fenced area that provides space for exercise and foraging for the birds when supervised.

HEN. A female chicken.

OFFICER. Any person designated by the city as an enforcement officer.

PERMANENT RUN. A fully enclosed and covered area attached to a coop where the chickens can roam unsupervised.

PORTABLE COOP/RUN. A portable structure for the keeping or housing of chickens with a fully enclosed and covered area attached to the coop where chickens can roam unsupervised. The coop/run is capable of being moved.

POULTRY. Domesticated birds that serve as a source of eggs or meat and that include among commercially important kinds, chickens, turkeys, ducks, geese, peafowl, pigeons, pheasants and others.

ROOSTER. A male chicken.

(Ord. passed 9-27-12)

§ 94.31 PURPOSE.

It is recognized that the ability to cultivate one's own food is a sustainable activity that can also be a rewarding past time. Therefore, it is the purpose and intent of this subchapter to permit the keeping and maintenance of chicken hens for eggs in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety, and welfare of the community, the keeping of other poultry is prohibited.

(Ord. passed 9-27-12) Penalty, see § 94.99

§ 94.32 INVESTIGATION AND ENFORCEMENT.

(A) Officers designated by the city shall have authority in the investigation and enforcement of this subchapter, and no person shall interfere with, hinder or molest any such officer in the exercise of such powers. The officer shall make investigations as is necessary and may grant, deny, or refuse to renew any application for permit, or terminate an existing permit under this subchapter.

(B) Limitations for each single dwelling residential unit:

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(1) No more than five chicken hens shall be housed or kept on any one residential lot in any area of the city zoned R-1, R-2, PUD, PRD, and AG with a permit as outlined below;

(2) Rooster are prohibited.

(3) Slaughtering of chickens in the city limits is prohibited.

(4) Leg banding of all chickens is required. The bands will be issued with the city upon chicken permit approval. The city will keep on file the owner's name, address and phone numbers.

(5) A separate coop is required to house chickens. Coops must be constructed and maintained to meet the following minimum standards:

(a) Located in the rear or side yard.

(b) Setback at least ten feet from the rear or side property lines.

(c) Interior floor space - minimum of three square feet per bird.

(d) Interior height - four to six feet to allow access for cleaning and maintenance.

(e) Doors - one standard door to allow humans to access the coop so that cleaning the coop is possible and one for birds (if above ground level, must also provide a stable ramp).

(f) Windows - one square foot window per 12 square feet floor space. Windows must be able to open for ventilation.

(g) Climate control - adequate ventilation and/or insulation for extreme temperatures.

(h) Nest boxes - one box per every three hens.

(i) Roosts - one and one-half inch diameter or greater, located 18 inches from the wall and two to three inches above the floor.

(j) Rodent proof - coop construction and materials must be adequate to prevent access by rodents.

(k) Coops shall be constructed and maintained in a manner so as to not become a nuisance as defined in Chapter 96, Nuisances.

(l) Structure must be in compliance with the current zoning and building codes.

(6) A portable coop/run is permitted to house the chickens. Portable coop/runs must be constructed and maintained to meet the following minimum standards:

- (a) Setback at least ten feet from the rear or side property lines.
- (b) Interior space - minimum of three square feet per bird.
- (c) Doors - adequate access to allow humans the space to clean the coop.
- (d) Outside run - a minimum of five square feet a bird.

(7) A run or exercise yard is required. Permanent runs must be constructed and maintained to meet the following minimum standards:

- (a) Location: rear or side yard. Setback at least ten feet from the rear or side property lines.
- (b) Size: Nine square feet per bird. If the coop is elevated two feet so the hens can access the space beneath, that area may count as a portion of the minimum run footprint.
- (c) Height: Four to six feet in height to allow access for cleaning and maintenance.
- (d) Gate: One gate to allow human access to the run.
- (e) Cover: Adequate to keep hens in and predators out.
- (f) Substrate: Composed of material that can be easily raked or regularly replace to reduce odor and flies.

(8) Chickens must not be housed in a residential house or an attached or detached garage or accessory building, except for brooding purposes only.

(9) All premises on which chicken hens are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents. The coop and its surroundings must be cleaned frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors detectable on another property. Failure to comply with these conditions may result in the officer removing chickens from the premises and/or revoking a chicken permit.

(10) All grain and food stored for the use of the hens on a premise with a chicken permit shall be kept in a rodent proof container.

(11) Chicken hens shall not be kept in such a manner as to constitute a nuisance to the occupants of adjacent property.

(12) 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 hours to 72 hours. Legal forms of chicken carcass disposal include offsite burial, offsite incineration or rendering, or offsite composting.

(Ord. passed 9-27-12; Am. Ord. 2015-02, passed 9-22-15) Penalty, see § 94.99

§ 94.33 PERMIT REQUIRED.

(A) No person shall own, keep, harbor or have custody of any live chicken(s) without first obtaining a permit in writing from the city.

(B) The city shall grant a permit for chicken hens after the applicant has notified all owners or occupants of privately or publicly owned real estate that are located adjacent (i.e., sharing property lines) on the outer boundaries of the premises for which the permit is being requested, or in the alternative, proof that the applicant's property lines are 150 feet or more from any house. Resident requesting the chicken permit must have signatures from adjacent property owners verifying that they have been notified of the chicken permit request.

(C) Where an adjacent property consists of a multiple dwelling or multi-tenant property, the applicant need notify the owner or manager, or other person in charge of the building.
(Ord. passed 9-27-12) Penalty, see § 94.99

§ 94.34 APPLICATION.

Any person desiring a permit required under the provisions of this subchapter shall make written application to the City Clerk upon a form prescribed by and containing such information as required by the City Clerk and officer. Among other things, the application shall contain the following information:

(A) A description of the real property upon which it is desired to keep the chickens.

(B) The breed and number of chickens to be maintained on the premises.

(C) A site plan of the property showing the location and size of the proposed chicken coop and run, setbacks from the chicken coop to property lines and surrounding buildings (including houses and buildings on adjacent lots), and the location, style, and height of fencing proposed to contain the chickens in a run or exercise area. Portable coops and cages are allowed, but portable locations must be included with the site plan.

(D) Statements that the applicant will at all times keep the chickens in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this subchapter and grounds for cancellation of the permit.

(E) Written verification from adjacent property owners that they are aware of the chicken permit request.

(F) Such other and further information as may be required by the officer.
(Ord. passed 9-27-12)

§ 94.35 PERMIT CONDITIONS.

(A) If granted, the permit shall be issued by the City Clerk and officer and shall state the conditions, if any, imposed upon the permitted for the keeping of chickens under this permit.

(B) The permit shall specify the restrictions, limitations, conditions and prohibitions which the officer deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health and safety. Such permit may be modified from time to time or revoked by the officer for failure to conform to such restrictions, limitations, prohibitions. Such modification or revocation shall be effective after ten days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintain such chickens.

(C) The granting of a permit under this ordinance does not entitle the permit holder to any other rights as may be granted to farmers or commercial entities relating to equipment used in the course of conducting animal husbandry business.
(Ord. passed 9-27-12)

§ 94.36 FEES/ISSUANCE.

For each residential site the fee for a permit is as may be imposed, set, established and fixed by the City Council, by resolution, from time to time.
(Ord. passed 9-27-12)

§ 94.37 TERM.

The permit period under this section shall expire one year from the date the permit is issued. Permits must be renewed on an annual basis.
(Ord. passed 9-27-12)

§ 94.38 REVOCATION.

The city may revoke any permit issued under this subchapter if the person holding the permit refuses or fails to comply with this subchapter, with any regulations promulgated by the City Council pursuant to this subchapter, or with any state or local law governing cruelty to animals or the keeping of animals.

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Any person whose permit is revoked shall, within ten days thereafter, humanely dispose of all chickens being owned, kept or harbored by such person, and no part of the permit fee shall be refunded.
(Ord. passed 9-27-12)

§ 94.39 NEIGHBORHOOD APPROVAL FOR ISSUANCE OF A CHICKEN PERMIT.

Byron City Ordinance allows the keeping of chicken hens in certain zoned districts, under certain circumstances, with the approval of a permit application. The applicant must also notify 100 percent of the property owners adjacent to the applicant's property.

Your neighbor located at _____ is requesting a chicken permit from the City. If approved, the permit will allow your neighbor to keep up to three hens in an approved chicken coop. A summary of the chicken permit requirements is listed below for your information. Your signature below indicates that you acknowledge that you're that your neighbor may be keeping up to three hens on their property as per city ordinance.

Street Address	Owner Name	Signature (acknowledging being informed)
_____	_____	_____
_____	_____	_____
_____	_____	_____

City of Byron Chicken Permit Requirements

1. Up to 3 hens (No Roosters) allowed in certain districts with a yearly permit.
2. For the initial permit the applicant must notify 100% of the property owners that are adjacent to the applicant's property.
3. Slaughtering of chickens on the property is prohibited.
4. Leg banding of all chickens is required to identify owner in the event of stray chickens.
5. A separate coop and run is required to house the chickens. Coop must be located in the rear or side yard and be set back at least 10 feet from the property line.
6. Exercise yards must be fenced and is required if the run does not provide at least nine square feet per bird.
7. All premises on which chickens are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents. The coop and its surrounding must be cleaned frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors detectible on another property.
8. All grain and food stored for the use of the hens shall be kept in a rodent proof container.
9. 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. Legal forms of chicken carcass disposal include burial offsite incineration or rendering, or offsite composting.

Permit No. _____

City Verification

Zoning District _____

Coop Location _____

Coop Sq. Ft. _____

Coop Height _____ Number of Hens _____

Type of Hens _____

Chicken Run Yes/No _____

City Official Approval & Date

See Fee Schedule

Renewal Date:

(Permits are non-transferable and must be renewed annually)

Leg Band #'s _____

(Ord. passed 9-27-12)

§ 94.99 PENALTY.

(A) *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

(B) *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 10.99.

(C) *Petty misdemeanor.* Violations of §§ 94.02, 94.07, 94.13 and 94.14 are petty misdemeanors punishable as provided in § 10.99.

(D) (1) Any person violating §§ 94.30 through 94.39 shall be deemed guilty of a petty misdemeanor.

(2) If any person is found guilty by a court for violation of §§ 94.30 through 94.39, their permit to own, keep, harbor, or have custody of chickens shall be deemed automatically revoked and no new permit may be issued for a period of one year.

(3) Any person violating any conditions of the permit (contained in § 94.30 through 94.39) shall reimburse the city for all costs borne by the city to enforce the conditions of the permit including but not limited to the pickup and impounding of chickens.
(Am. Ord. - -, passed 5-23-07; Am. Ord. passed 9-27-12)

