



## ORDINANCE

### AMENDING THE LAND USE CODE BY ADDING PROVISIONS REGARDING URBAN CHICKENS

### *CITY OF NASHUA*

*In the Year Two Thousand and Eighteen*

*The City of Nashua ordains* that Part II “General Legislation”, Chapter 190 “Land Use”, of the Nashua Revised Ordinances, as amended, be hereby further amended as follows:

1. In Article III “Base Districts”, Section 190-15 “Permitted Uses”, Table 15-1 “Use Matrix”, add new entry “287a.”, add the new underlined language, and delete the struck-through language as follows:

Key: “P” mean permitted as of right. “C” means permitted as a conditional use. “S” means permitted as a special exception. “A” means permitted only as an accessory use. “-” means prohibited. Refer to Article XLII or the source referred to under “Land Use Code” for specific definitions of uses.																		
Use	Land Use Code			Zoning District														
	LBCS Function	LBCS Structure	NAICS	R-40 Rural Residence	R-30 Suburban Residence	R-18 Suburban Residence	R-9 Suburban Residence	R-A Urban Residence	R-B Urban Residence	R-C Urban Residence	LB Local Business	GB General Business	D-1 Downtown	D-3 Downtown	HB Highway Business	PI Park Industrial	AI Airport Industrial	GI General Industrial
287. Livestock, noncommercial raising and keeping of livestock, horses and poultry, the raising of swine and fur animals for commercial use				P	P	☹	.	.	.	.	.	.	.	.	C	.	.	.

287a. <u>Chickens, as an accessory use</u>				:	:	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	:	:	:	:	:	:	:	:
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289. Stable, commercial, riding academy, or kennel in which all animals, <del>fowl</del> <u>poultry</u> or other forms of life are completely enclosed in pens or other structures						C	C	-	-	-	-	-	-	-	-	-	C	-	-	-
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2. In Part II “General Legislation”, Chapter 190 “Land Use”, Article VI “Supplemental Use Regulations”, add the following new section:

**“§190-31.1. Keeping of Chickens.**

- A. Purpose. It is the intent of this section to allow for the keeping of domestic female chickens on a lot for the sole use and enjoyment of the residents of the lot on which such chickens are kept, while at the same time preserving the quality of life of the surrounding neighborhood by not allowing chickens to be kept in a number or in a manner that could create a nuisance.
- B. Applicability. This section applies to chickens as defined in §190-264. This section does not apply to R-40 and R-30 zoning districts.
- C. Standards.
  - (1) Chickens shall be kept in accordance with all applicable City Ordinances and regulations, and state laws, including but not limited to RSA 644:8, Cruelty to Animals.
  - (2) Up to six (6) adult chickens may be kept on a lot. Only female chickens are allowed to be kept. Adult male or crowing male chickens (roosters) are prohibited.
  - (3) The keeping of chickens shall be accessory to and on the premises of a single-family or two-family detached dwelling in an accessory structure or coop and shall be for personal use only.
  - (4) No person shall sell eggs or engage in chicken breeding or any commercial activity related to the keeping of chickens.
  - (5) Chickens shall not be permitted to roam free. Chickens shall be secured in a coop during non-daylight hours.

- (6) A coop must be provided for the chickens. A coop is a roofed structure enclosed on all sides which protects the chickens from the weather, rodents and wild and domestic animals. Coops must meet the following standards:
  - (a) The coop must have a minimum of three (3) square feet of floor space per chicken if a run is provided. A minimum of ten (10) square feet of floor space per chicken in the coop is required if no run is provided. Each chicken must have a total available ground space (including coop and run, if any) of at least 10 square feet per chicken.
  - (b) The coop must provide roosting space off the floor of one (1) foot of roost space per chicken.
  - (c) The coop must provide adequate ventilation, be kept in a neat and sanitary condition at all times, and in a manner that will not disturb neighboring lots due to noise, odor or other adverse impact.
  - (d) The maximum height for a coop is eight (8) feet measuring from the ground to the top of the structure.
  - (e) The materials used in building the coop shall be uniform for each element of the structure.
- (7) An enclosed run is permitted. A run is a fenced area outside the coop. An enclosed run is completely bound on all sides, including overhead, by a fence, cage or wire. An enclosed run must be attached to the coop. The maximum height for an enclosed run is ~~six (6)~~ eight (8) feet measuring from the ground to the top of the structure. A run shall be kept in a neat and sanitary condition at all times, and in a manner that will not disturb neighboring lots due to noise, odor or other adverse impact.
- (8) The coop and any run must be located in side or rear yards and ~~must comply with the setbacks of the zone~~ cannot be located within 20 feet of a property line.
- (9) All feed supplies must be kept in rodent-proof containers.
- (10) All stored manure shall be covered by a fully enclosed structure or container. No more than three (3) cubic feet of manure shall be stored.
- (11) All manure not used for composting or fertilizing, waste material (including but not limited to spent feed, litter, and waste eggs) and dead chickens shall be properly and promptly removed from the property.”

3. In Part II “General Legislation”, Chapter 190 “Land Use”, Article XLII “Definitions”, Section 190-264 “Definitions”, add the following two new definitions in the appropriate alphabetical order:

“CHICKEN – the common domestic fowl, Gallus Domesticus.

POULTRY – Domesticated fowl commonly raised or kept for eggs or meat.”

4. In Part II “General Legislation”, Chapter 93 “Animals”, Article I “Rules for Keeping Animals”, shall be amended by adding the new underlined language as follows:

**“§93-3. Keeping and Housing Animals.**

~~Except for chickens as defined in Section 190-264, it shall be unlawful for any person, whether as owner, bailee, keeper or custodian, to keep and house any animal in any-an accessory structure built or located within 45 feet of any building occupied by human beings in the City except upon special permission from the health officer of the board of health of the City. The location, construction, erection and sanitary condition of all such structures shall be made satisfactory to the health officer. Plans approved by the board of health shall be filed with the board before any such building shall hereafter be constructed, altered, extended or moved.~~  
in an unsanitary manner that presents an imminent hazard to public health, as determined by the health officer or designee.

**§93-2. Animals at large forbidden; penalty; impoundment.**

- A. No chicken or fowl as defined in Section 190-264, sheep, swine, horses, mules, asses, oxen, cows or other cattle shall be permitted to go at large in any street, highway, lane, alley, common, square or other public place within the city.
- B. Any person permitting a violation of this section shall be punished as provided in section 1-9.
- C. Any person finding any such creature going at large may either impound and detain the same until penalty and cost of impounding shall be paid, or may make complaint against the person permitting such creature to go at large, and the penalty shall be imposed by the court having jurisdiction.
- D. The term “at large” means off the premises of the owner or keeper, and not under lead, leash or other physical restraint.

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**§93-6. Impoundment of dogs, cats, chickens and ferrets found at large.**

- A. The Dog Officer or other authorized person shall take into custody and impound:
  - (1) Any dog off the premises of its owner which the Dog Officer or other authorized person has reason to believe is a stray dog;
  - (2) Any dog off the premises of the owner of the dog without a current registration tag on his collar; ~~and~~
  - (3) Any female dog in heat and off the premises of the owner; and
  - (4) Any chicken off the premises of the owner.

- B. If any dog, cat, ~~chicken~~ or ferret seized wears a collar or harness to which is attached a registration tag, or if the owner is otherwise known, the Dog Officer or other authorized person shall forthwith serve on the owner a notice in writing stating that the dog, cat, ferret ~~or chicken~~ has been seized and will be liable to be disposed of or destroyed if not claimed within seven days after the serving of notice. Notice may be served either by giving it to such person or by leaving it at the person's usual or last known place of abode, as determined by the registration tag or other available information.
- C. No dog, cat, or ferret shall be released or removed from confinement until the owner has provided proof that the dog, cat, or ferret is currently vaccinated against rabies, and all applicable license, board, and care fees have been paid. If the owner does not have proof that the dog, cat, or ferret is currently vaccinated against rabies, then the owner may post a \$25 cash bond with the Dog Officer or other authorized person to secure the release of the dog, cat, or ferret in order for the owner to obtain a rabies vaccination for the dog, cat, or ferret. If, within 72 hours of the dog, cat, or ferret's release the owner provides proof to the Dog Officer or other authorized person of obtaining a rabies vaccination for the dog, cat, or ferret, then the owner shall be refunded the full bond amount. ~~No chicken shall be released or removed from confinement until all applicable license, board, and care fees have been paid.~~
- D. When a seized dog, cat, ~~chicken~~ or ferret has been detained for seven days after seizure, with due notice given as prescribed, and the owner has not claimed the dog, cat, ~~chicken~~ or ferret, provided proof that the dog, cat, or ferret is currently vaccinated against rabies, procured a current license or exhibited evidence of a current license if necessary, and paid all applicable license, board, and care fees, the Dog Officer or other authorized person may cause the dog, cat, ~~chicken~~ or ferret to be destroyed in the least painful manner possible.
- E. The Dog Officer or other authorized person may keep or cause to be kept in confinement any dog, cat, ~~chicken~~ or ferret which, in that person's opinion, may be valuable or acceptable to new ownership, and see that such dog, cat, ~~chicken~~ or ferret is placed in a new home. In order to expedite this alternative, the Dog Officer or other authorized person shall make available to the public, monthly, a list by number and other reference of dogs, cats, ~~chickens~~ and ferrets available. Those persons desiring to procure said dogs, cats, ~~chickens~~ or ferrets may do so by application to the Dog Officer or other authorized person and payment of applicable adoption and licensing fees.
- F. No dog, cat, ~~chicken~~ or ferret which the Dog Officer or other authorized person has taken into custody for a second offense shall be released unless the person to whom the dog, cat, ~~chicken~~ or ferret is released pays a penalty of \$25, as allowed by RSA 466:39, in addition to meeting all other requirements of this section. If said penalty is not paid within seven days after the dog, cat, ~~chicken~~ or ferret is taken into custody, the dog, cat, ~~chicken~~ or ferret may be destroyed in the least painful manner possible.”

G. \_\_\_\_\_

- i. ~~If any chicken seized wears a collar or harness to which is attached a~~ has registration owner identification, a band or tag, ~~tag,~~ or if the owner is otherwise known, the Dog

Officer or other authorized person shall forthwith serve on the owner a notice in writing stating that the chicken has been seized and will be liable to be disposed of or destroyed if not claimed within seven days after the serving of notice. Notice may be served either by giving it to such person or by leaving it at the person's usual or last known place of abode, as determined by the ~~registration tag~~identification or other available information.

ii. No chicken shall be released or removed from confinement until all applicable board, and care fees have been paid.

iii. When a seized chicken has been detained for seven days after seizure, with due notice given as prescribed in this section G, and the owner has not claimed the chicken, and paid all applicable fees, the ~~Dog~~ Officer or other authorized person may cause the chicken to be destroyed in the least painful manner possible.

The Dog Officer or other authorized person may keep or cause to be kept in confinement any chicken which, in that person's opinion may be valuable or acceptable to new ownership, and see that such chicken is placed in a new home. In order to expedite this alternative, the Dog Officer or other authorized person shall make available to the public, monthly, a list by number and other reference of chickens available. Those persons desiring to procure said chickens may do so by application to the Dog Officer or other authorized person and payment of applicable adoption fees.

iv. No chicken which the Dog Officer or other authorized person has taken into custody for a second offense shall be released unless the person to whom the chicken is released pays a penalty of \$25, as allowed by RSA 466:39, in addition to meeting all other requirements of this section. If said penalty is not paid within seven days after the chicken is taken into custody, the chicken may be destroyed in the least painful manner possible or placed in a new home as described in this section G.

All other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This ordinance shall become effective immediately upon passage.

**LEGISLATIVE YEAR 2018**

**ORDINANCE:**                   **O-18-019**

**PURPOSE:**                   **Amending the Land Use Code by adding provisions regarding urban chickens**

**ENDORSER(S):**               **Alderwoman-at-Large Shoshanna Kelly**

**COMMITTEE  
ASSIGNMENT:**

**FISCAL NOTE:**               **None.**

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**ANALYSIS**

This legislation amends the City’s Land use Code by adding provisions regarding urban chickens.

State statute (RSA 675:2) and NRO Section 190-132 require a public hearing and referral to the city planning board. The public hearing is conducted by the aldermanic planning and economic development committee with notice published in a newspaper of general circulation and posted in two public places at least 10 calendar days prior to the date of the hearing. The notice period does not include the day notice is posted or the day of the public hearing. (RSA 675:7, I) Under RSA 676:12 and NRO Section 105-3, no building permit may be issued after the legal notice has been posted if the proposed changes would, if adopted, justify refusal of the permit. This limitation applies for a period of 120 days.

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**Approved as to form:**               **Office of Corporation Counsel**

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_