

**ORDINANCE NO. 16-03**

**AN ORDINANCE AMENDING CHAPTER 55A OF THE MARION CODE OF ORDINANCES TO ALLOW THE KEEPING OF URBAN CHICKENS/DUCKS ON MULTI-FAMILY PARCELS OPERATING AS ASSISTED, NURSING, REST OR CONVALESCENT HOMES.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, IOWA:

Section 1. The Code of Ordinances is amended by deleting Chapter 55A and inserting in lieu thereof the following:

**55A.01 DEFINITIONS.**

1. "Applicant" shall mean the owner of the tract of land for which a permit is being requested; or, the owner's representative in the case of a nursing, rest or convalescent home.
2. "Chicken" shall mean a member of the subspecies Gallus Gallus Domesticus, a domesticated fowl. Chicken includes duck when the Permitting Officer has issued a permit therefore.
3. "Duck" shall mean a member of the subspecies Anatidae Anseriformes, a fowl.
4. "Urban chicken" shall mean a chicken kept on a permitted tract of land pursuant to a permit issued under this chapter.
5. "Permitting Officer" shall mean the person so designated by the City Manager.
6. "Tract of land" shall mean an expanse of land identified by address legally described with definitive boundaries.
7. "Single family dwelling" shall mean any building that contains only one dwelling unit used, intended, rented, leased, let or hired to be occupied for living purposes.
8. "Nursing, rest or convalescent homes" shall mean any building that contains multiple units intended to be occupied for short or long term care or recovery of individuals.
9. "Permitted tract of land" shall mean the tract of land as identified by the application upon which a permit is granted for keeping chickens pursuant to this chapter.
10. "Permittee" shall mean an applicant who has been granted a permit to raise, harbor or keep chickens pursuant to this chapter.

**55A.02 PERMIT REQUIRED.**

1. Permit Required. No person shall raise, harbor or keep chickens or ducks within the City of Marion without a valid permit obtained from the Permitting Officer under the provisions of this chapter.
2. Application. In order to obtain a permit, an applicant must submit a completed application on forms provided by the Permitting Officer, either on-line or in paper form, and paying all fees required by this chapter.
3. Requirements. The requirements to the receipt of a permit include:

- A. All requirements of this chapter are met.
  - B. All fees, as may be provided for from time to time by City Council resolution, for the permit are paid in full.
  - C. All judgments in the City's favor and against the applicant have been paid in full.
  - D. The tract of land to be permitted shall contain only one single family dwelling occupied by the permittee or operate as a nursing, rest or convalescent home.
  - E. The applicant has provided notice to the residents of all immediately adjacent dwellings of the applicant's intent to obtain a permit.
  - F. The applicant has successfully completed an approved class in raising chickens in an urban setting and has submitted a Certificate with the permit application. The Permitting Officer shall maintain a current list of such approved classes.
4. Issuance of Permit. If the Permitting Officer concludes, as a result of the information contained in the application, that the requirements for a permit have been met, then the Officer shall issue the permit.
5. Denial, Suspension, Revocation, Non-renewal. The Permitting Officer may deny, suspend, revoke, or decline to renew any permit issued for any of the following grounds:
- A. False statements on any application or other information or report required by this section to be given by the applicant.
  - B. Failure to pay any application, penalty, re-inspection or reinstatement fee required by this section or City Council resolution.
  - C. Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
  - D. Failure to comply with the provisions of an approved mitigation/remediation plan by the Permitting Officer, or designee.
  - E. Failure to comply with any provision of this chapter.
6. Notification. A decision to revoke, suspend, deny or not renew a permit shall be in writing, delivered by ordinary mail or in person to the address indicated on the application. The notification shall specify reasons for the action.
7. Effect of Revocation, Etc. When an application for a permit is denied, or when a permit is revoked, the applicant may not re-apply for a new permit for a period of one (1) year from the date of the denial or revocation.
8. Appeals. No permit may be denied, suspended, revoked, or not renewed unless notice and an opportunity to be heard is given the applicant or holder of the permit. In any instance where the Permitting Officer has denied, revoked, suspended, or not renewed a permit, the applicant or holder of an Urban Chicken permit may appeal the decision to the City Manager, or designee other than the Permitting Officer within ten (10) business days of receipt by the applicant or holder of the permit of the notice of the decision. The applicant or holder of the permit will be given an opportunity for a hearing. The decision of

the officer hearing the appeal, or any decision by the Permitting Officer which is not appealed in accordance to this chapter shall be deemed final action.

**55A.03 NUMBER AND TYPE OF CHICKENS ALLOWED.**

1. The maximum number of chickens allowed is six (6) per tract of land regardless of how many dwelling units are on the tract.
2. Only female chickens (hens) are allowed.
3. Chickens must have wings appropriately clipped to prevent them from flying.

**55A.04 ZONING DISTRICTS ALLOWED.** Permits will be granted only for tracts of land located in residential or planned development residential districts as identified on the Official Zoning Map on file with the City of Marion or operate as a nursing, rest or convalescent homes and which do not have restrictive covenants that prohibit chickens or ducks.

**55A.05 NON-COMMERCIAL USE ONLY.** A permit shall not allow the permittee to engage in chicken breeding or fertilizer production for commercial purposes.

**55A.06 ENCLOSURES.**

1. Chickens must be kept in an enclosure or fenced area at all times. Chickens shall be secured within a henhouse or chicken tractor during non-daylight hours.
2. Enclosures must be kept in a clean, dry, odor-free, neat and sanitary condition at all times.
3. Henhouses, chicken tractors and chicken pens must provide adequate ventilation and adequate sun and shade and must be impermeable to rodents, wild birds and predators, including dogs and cats.
4. Henhouses and Chicken Tractors.
  - A. Henhouses and chicken tractors shall be designed to provide safe and healthy living conditions for the chickens with a minimum of four (4) square feet per bird while minimizing adverse impacts to other residents in the neighborhood.
    - (1) A henhouse or chicken tractor 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 henhouse or chicken tractor 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. Henhouses and chicken tractors shall be well maintained.
  - B. Henhouses, chicken tractors and chicken pens shall only be located in the rear or side yard as defined by Section 176.07 Definitions, of the Marion Code of Ordinances. At no time may said structures be located in the corner side yard or the front yard of any property.

C. Henhouses, chicken tractors and chicken pens must be located at least ten (10) feet from the property line and at least twenty-five (25) feet from any adjacent residential dwelling, church, school or place of business.

5. Any enclosed chicken pen shall consist of sturdy wire fencing. The pen must be covered with wire, aviary netting, or solid roofing.

6. Upon ceasing to maintain chickens or ducks on the property, all enclosures related to them shall be removed from the premises within thirty (30) days.

#### **55A.07 ODOR AND NOISE IMPACTS.**

1. Odors from chickens, chicken manure or other chicken related substances shall not be perceptible beyond the boundaries of the permitted tract of land.

2. 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.

**55A.08 PREDATORS, RODENTS, INSECTS AND PARASITES.** The Permittee shall take 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 a Marion Animal Control Officer.

**55A.09 FEED AND WATER.** Chickens shall be provided with access to feed and clean water at all times. The feed and water shall be unavailable to rodents, wild birds and predators.

**55A.10 WASTE STORAGE AND REMOVAL.** All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored on the permitted tract of land. All other manure not used for composting or fertilizing shall be removed. The henhouse, chicken tractor, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

#### **55A.11 CHICKENS AT LARGE.**

1. 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.

2. The Permittee shall place and keep leg bands on all of his chickens showing the permit number.

#### **55A.12 UNLAWFUL ACTS.**

1. It shall be unlawful for any person to keep chickens in violation of any provision of this chapter or any other provision of the Code of Ordinances.

2. It shall be unlawful for any owner, renter or leaseholder of property to allow chickens to be kept on the property in violation of the provisions of this chapter.

3. No person shall keep chickens inside a single family dwelling unit, multi-family dwelling unit(s), nursing, rest or convalescent homes or rental unit.

4. No person shall slaughter any chickens within the City of Marion.

5. No person shall keep a rooster.
6. No person shall keep chickens on a vacant or uninhabited tract of land.

**55A.13 NUISANCES.** Any violation of the terms of this chapter that constitutes a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under the general nuisance abatement provisions of Code of Ordinances Chapter 50.


**55A.14 DUCKS.** The Permitting Officer may also issue permits for ducks subject to the same terms and conditions that apply to chickens under this chapter or so many as the Permitting Officer deems reasonably applicable.

Section 2. All ordinances or parts of ordinances in conflict herewith are repealed.

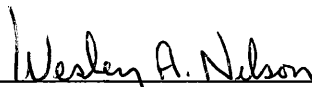
Section 3. That the changes as provided in this Ordinance shall be made a part of the replacement pages of the Code of Ordinances of the City of Marion, Iowa, and made a part of said Code as provided by law.

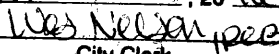
Section 4. That this Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Passed and approved this 7<sup>th</sup> day of April, 2016.

  
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Nicolas AbouAssaly, Mayor

ATTEST:

  
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Wesley A. Nelson, City Clerk

**CERTIFICATE OF SERVICE**  
The undersigned City Clerk of Marion, Iowa certifies that the ordinance shown immediately above was published in the Marion Times on the 14 day of April, 2016.  
  
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City Clerk