

ORDINANCE NO. 518-2016

AN ORDINANCE OF THE VILLAGE OF KENESAW, NEBRASKA PROVIDING FOR THE CONTROL OF FOWL AND SMALL NON-DOMESTICATED ANIMALS WITH IN THE MUNICIPALITY; ESTABLISHING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING FOR AN EFFECTIVE DATE OF SAID ORDINANCE; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

BE IT ORDAINED BY THE CHAIR PERSON AND THE VILLAGE BOARD OF TRUSTEE'S OF THE VILLAGE OF KENESAW, NEBRASKA.

Section 1. – Section 6. Article 310

ANIMALS: FOWL CONTROLLED WITHIN MUNICIPALITY; PERMIT PROCESS.

- A. Except as permitted by subsection E and F of this ordinance, it shall be unlawful for any person, corporation, firm, or other entity, in the capacity of owner, occupant, lessee, mortgagee, or agent thereof to keep or maintain, within or without the city limits of the Village of Kenesaw, Nebraska, any chickens, ducks, geese, turkeys, pheasants, quail, pigeon, ostriches, or any other similar fowl within three hundred feet (300') of any residence, dwelling, business house, or commercial structure located within said Village limits.
- B. The keeping or maintaining of such fowl as described in Section A above shall be considered to be a specific nuisance, in addition to those identified in section 4-201 & 4-202 of the Kenesaw Municipal Code, and may be abated in accordance with the provisions of Section 4-203 of said Municipal Code.
- C. In addition to the abatement procedure identified in subsection B above, the Village of Kenesaw, Board of Trustee's shall be authorized to maintain an action for abatement of such activity in the District Court of Adams County, Nebraska, against the owner, occupant, lessee, mortgagee, or agent thereof, who is deemed to be in violation of subsection A of this section. Such action is authorized under the powers granted in section 17-123 of the Revised Statutes of the State of Nebraska.
- D. Furthermore, any owner, occupant lessee, mortgagee, or agent thereof, who shall violate, or refuse to comply with the provisions of subsection (A) of this section, or the enforcement thereof, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with the specific penalty structure as set out below in subsection (E) of this section. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (Ord. No. 341, 10/03/00)
- E. Penalty Structure for Violations:
 - 1st Offense-- \$100.00 fine plus court costs;
 - 2nd Offense-- \$200.00 fine plus court costs;
 - 3rd Offense-- \$500.00 fine plus court costs and loss of permit, and removal of the animals.

The fine amounts may be paid by wavier at the Adams County Court Office on the 2nd floor of the Adams County Court House in Hastings, NE.

F. Fowl Permit and Sanitation Requirements

Notwithstanding the above provisions of this ordinance, the raising of birds, such as chickens, ducks, pheasants, quail, pigeons, and geese or any similar fowl for the purpose of this section, within the municipality may be permitted, subject to compliance with the following conditions:

I. Permit Requirements

A. Permit Fee

Any person desiring to keep fowl as defined in section F above, in the Village of Kenesaw, Nebraska or its zoning jurisdiction shall obtain a permit from the Village prior to acquiring the fowl. Application shall be made to the Village Clerk and the fee for the permit shall be \$25.00 per year or as determined by the Board of Trustees resolution. The application shall be in writing on a form to be furnished by the Village Clerk for that purpose.

B. Permit Terms and Expiration

Permits expire and become invalid one (1) year after date of issuance. A person who wishes to continue keeping fowl shall have obtained a new permit on or before the expiration date of the previous permit. No permit shall be assignable or transferable either as to permittee, location, or species of animal.

C. Application

1. The application shall be made pursuant to the procedures and requirements that are applicable at the time the person applies for the new permit, which shall include:

- a) Name and residence of the applicant;
- b) Location of premises where fowl are to be kept;
- c) Species of fowl to be kept;
- d) Statement of the method in which offal, manure and waste material accumulating from such fowl will be sanitarily disposed of;
- e) An attached diagram or plat of premises, showing dimensions of premises, location and dimensions of the enclosure, and the distance from the residence building, and property lot line, on the same lot and on the adjacent property.

2. Prior to the issuance of any permit for the keeping fowl the Village clerk shall have a proper investigation completed by the Village personnel of the facts set forth in the application for the permit and determine whether said premises conform to the requirements of this chapter and other ordinances of the village with respect to zoning and building regulations, sanitation, and location of enclosures and shelters. No permit shall be issued by the Village Clerk, after initial approval by the Village Board of Trustee's, until proper facilities shall be provided for the care and protection of the fowl to be cared for on the premises and the location of the premises is deemed to be proper and suitable for the keeping of such fowl and the application has been approved as to proper zoning.

II. Specific Keeping/Housing Requirements

A. A person who keeps or houses fowl on his or her property shall comply with all of the following requirements:

1. No more than 6 each of the following: Chickens, ducks, pheasants, quail, pigeons; And no more than 4 each of geese may be kept on any one zoning lot
2. The principal use of the property shall be a single-family dwelling.
3. No person shall keep fowl on a vacant or uninhabited tract of land.
4. No person shall keep any rooster, peacock or turkey.
5. No person shall slaughter any fowl within view of the general public.
6. The fowl shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Fowl shall be secured within a covered enclosure during non-daylight hours. Such covered enclosure or coop shall contain at least 4 square feet of floor area per fowl, and the fenced enclosure shall provide at least 10 square feet of open area per fowl; no coop shall exceed 120 square feet of floor area or exceed 12 feet in height.
7. A person shall not keep fowl in any location on the property other than in the rear yard. For purposes of this section, "rear yard" means that portion of the lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the dwelling and extending to the side lot lines.
8. No covered enclosure or fenced enclosure shall be located closer than 10 feet to any property line of any adjacent property.
9. All enclosures for the keeping of fowl shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. A covered enclosure or fenced enclosure shall not be located closer than 40 feet to any residential structure.
 - a) A covered enclosure for fowl 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.
 - b) The materials used in making a covered enclosure 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. Covered enclosures shall be well maintained.
 - c) Any enclosed fowl pen shall consist of sturdy wire fencing. The pen must be covered with wire, aviary netting, or solid roofing.

B. All feed and other items associated with the keeping of fowl that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.

- C. Odors from all fowl, manure or other fowl/animal related substances shall not be perceptible beyond the boundaries of the permitted tract of land.
- D. Noise from any fowl shall not be loud enough beyond the boundaries of the permitted tract of land at the property boundaries to disturb persons of reasonable sensitivity.
- E. The Permittee shall not allow the Permittee's fowl to roam off the permitted tract of land. No dog or cat or other domesticated animal which kills or attacks any fowl off the permitted tract of land will, for that reason alone, be considered a dangerous or aggressive animal or the city's responsibility to enforce its animal control provisions.

III. Waste Removal/Dead Animal Removal

- A. The owner of any fowl shall keep all pens, enclosures, and shelter structures wherein such fowl are kept in a clean and sanitary condition so as not to give off offensive odors which are a source of discomfort to persons residing in the vicinity thereof. The owner of any fowl or large animals to accumulate or remain in the pens, enclosures, and shelter areas upon which such fowl or reside or is confined in any manner which is conducive to the breeding or attraction of flies, mosquitoes, or other noxious insects or in any manner which endangers the public health or safety or which creates an unhealthy environment. The maintenance or permitting of any of the foregoing conditions on any such lot or parcel of ground is hereby declared to be a public nuisance. The owner of any fowl shall in a sanitary manner remove or dispose of all manure and waste materials accumulating from such fowl at least once every seven days.
- B. If any fowl dies in the possession of any person in this village, it shall be the duty of such person to cause the same to be at once buried or otherwise disposed of. In the case the owner or person having charge of any such fowl shall neglect or refuse to remove such dead fowl within twenty-four hours after its death, the Village employees shall cause the same to be removed at the expense of such owner or person having charge of the fowl in the amount of no less than \$100 or as decided by the Board of Trustee's resolution.
- G. Any violation of the provision of this subsection (6-310, F - I and II) shall subject the violating party to the penalties identified above in 6-310 B, C, D, and E in addition, the Village may revoke any permit granted under this section.
- H. A person who has been issued a permit shall submit the premises so licensed, for inspection upon request by any Police Officer or Code Enforcement Officer of the Municipality.

Section 2. This ordinance shall be effective from and after its passage and publication as provided by law.

Section 3. All ordinances and parts of ordinances in conflict here with are hereby repealed.

Passed and adopted by the Village Board on this _____ day of _____, 2017

Village of Kenesaw

Board Chair, Sarah Kroos

(Seal)

Attest:

Clerk, Cindy Kiefer