

Memorandum

City of Lawrence

Legal Services

TO: Toni Ramirez Wheeler, Director of Legal Services

FROM: Scott J. Miller, Staff Attorney

Date: March 11, 2009

RE: Ordinance 8378 – Amending the City Code to Allow the Keeping of Chickens and Ducks

At the direction of the City Commission and with the input of concerned citizens and members of the City's staff, including Planning and Developmental Services, I have prepared Ordinance 8378. The ordinance addresses the keeping of fowl within the City limits. For the purpose of the ordinance, "fowl" means those domestic birds commonly kept for the production of meat, eggs or feathers. This specifically includes chickens, ducks, turkeys, geese, swans, peafowl, and guinea fowl, ostriches and emus.

The effect of the ordinance would be to permit keeping ducks and female chickens within the City, while banning the keeping of other types of fowl. If the City Commission desires to permit the keeping of some of these other types of birds, the list can easily be amended.

Some chicken keepers asked that the ban not extend to juvenile male chickens of an age less than a year. The draft ordinance does not incorporate this recommendation because doing so would make proving the age of the animal an element of any prosecution for unlawfully keeping a rooster, and this would make the prohibition very difficult to enforce without expert testimony.

Currently existing ordinances pertaining to the keeping of animals such as cruelty to animals, the requirement not to allow animals to roam at large and the animal noise ordinance will all apply to chickens and ducks much as they would to other domestic animals. In addition, there are certain fowl-specific provisions included to address the special concerns attendant to the keeping of chickens and ducks.

The proposed ordinance would limit the number of chickens or ducks allowed to be kept on any lot within the City to one chicken or duck per 500 square feet of lot area, with a maximum of 20 chickens and/or ducks even if the size of the lot would allow for more.

Amy Brown, Long-Range Planner, was asked to provide some analysis of what this law would allow on an average-sized lot in the City. She based her calculations on RS5 and RS7 zoning districts, which are the predominant single family zoning districts in the City.

RS5 lots are a minimum of 5,000 square feet, and RS7 lots are a minimum of 7,000 square feet. The draft law would allow for 10 and 14 birds on these lot types respectively. Brown also pointed out that it is important to remember that these are the minimum lot sizes for these districts, and the actual number would be based upon each individual lot. For example, many of the lots platted with the original town plats are 115' X 50' and therefore are 5,750 square feet. A maximum of 11 chickens and/or ducks would be allowed on a lot this size.

Because these animals have specific shelter requirements, the ordinance provides that coops must be at least three square feet in size per chicken or duck if the animals have a fenced outdoor run, or ten square feet in size per animal if they do not. Each chicken requires a roost of at least eight inches in length and a laying box with suitable bedding material at least one square foot in size is required for every three chickens.

The ordinance prohibits keeping the animals in unsanitary conditions. These conditions would include the accumulation of unreasonable amounts of waste or other noxious material, noxious odors, or the presence of vermin. At a minimum, each coop would be required to be cleaned on a weekly basis.

Because chicken coops can come in a variety of shapes and sizes, including mobile habitations like "chicken tractors", the ordinance makes references to other city laws that may apply such as the Development Code. If a coop meets the definition of accessory structure under the Development Code, as most non-mobile coops likely will, then the requirements that apply to accessory structures in each zoning district will also apply to the erection of chicken coops. These requirements address issues such as allowable sizes, placements and setbacks. Under our building codes, structures less than 120 square feet would not need a building permit.

The proposed ordinance also amends the City's dangerous dog ordinance to specify that a dog that kills a duck or chicken that is not confined to its owner's property does not qualify as a dangerous dog based upon that act alone. This would likely occur if a chicken or duck wandered into a neighboring dog's yard.

In addition to the amendments proposed to Chapter III, in order to legalize the keeping of chickens and ducks within the City the Development Code would need to be amended. Section 20-502 of the City Code, which deals with animal agriculture uses, would need to be changed to include an exception for the keeping of chickens and ducks consistent with the provisions of Chapter III Article 5 of the City Code. If this is the desire of the City Commission it should initiate a text amendment to that effect.

Recommended Action

1. Staff recommends that if the City Commission wishes to allow the keeping of chickens and ducks within the City that it votes to pass Ordinance 8378.

2. Staff further recommends that if the City Commission passes Ordinance 8378 that it also votes to initiate a text amendment to Section 20-502 of the Development Code to allow for the keeping of chickens and ducks within the City consistent with the provisions of Chapter III of the City Code.

If you have any need for further information, please feel free to contact me.