

ORDINANCE NO. 602

AN ORDINANCE AMENDING ORDINANCE NO. 523 RELATING TO THE KEEPING OF CHICKENS ON SINGLE FAMILY RESIDENTIAL PROPERTIES IN THE CITY OF MOUND CITY, KANSAS

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MOUND CITY, KANSAS, AS FOLLOWS:

Section 1. Purpose. This Ordinance is intended to codify Mound City's regulations regarding residential keeping of chickens within the city limits on nonagricultural single family and two-family lots.

Section 2. Council Action. The Council and Mayor convened on August 6, 2024, and deemed it appropriate to allow permitting of residential chicken coops pursuant to regulations set forth in this Ordinance.

Section 3. Definitions. For the purposes of this Ordinance, these words and phrases shall have the following meaning:

- A. Chicken** means *Gallus gallus domesticus* of the female sex. This definition does not include male chickens or roosters, or other fowl, such as, but not limited to, peacocks, turkeys, guinea fowls, ducks or waterfowl, all of which are not permitted under this Ordinance.
- B. Chicken Coop or Coop** means an enclosed and roofed structure for housing chickens that provides shelter from the elements.
- C. Chicken Run or Run** means an enclosed outside yard or area for keeping chickens.
- D. Chicken Tractor or Tractor** means a movable chicken coop lacking a floor.
- E. Humane standards of care** shall be defined to include, but not be limited to, accessibility of the chickens to food and water, proper medical attention, proper shelter from the elements, and cleanliness in animal waste areas with regular waste removal.
- F. Nuisance** means any act which is unreasonably annoying or vexatious to another or substantially interferes with the rights of others and shall include, but not be limited to, obnoxious odors, excessive noise, and creation of an environment attractive to other animals or insects. More than three substantiated violations of this title within a twelvemonth period will automatically constitute a nuisance.

Section 4. Keeping of Chickens.

- A.** It shall be unlawful for any person to keep or otherwise maintain chickens upon any single or two-family residential property within the City, or upon any agricultural property of less than 3 acres being used for residential purposes, unless the chickens are kept in accordance with the provision of this Ordinance.
- B.** It shall further be unlawful for any owner, renter or leaseholder of any such property to allow chickens to be kept or maintained in or upon such property in violation of the provisions of this Ordinance.

- C. The keeping of chickens is for non-commercial purposes only. It shall be unlawful to engage in chicken breeding or fertilizer production for commercial purposes upon any single or two-family residential property within the City, or upon any agricultural property of less than 3 acres being used for residential purposes.

Section 5. Permit Required.

- A. General Requirement. For a person to keep or otherwise maintain chickens upon any single or two-family residential property within the City, or upon any agricultural property of less than 3 acres being used for residential purposes, an annual "Chicken Permit" shall be obtained from the City Clerk's office. The Chicken Permit shall be obtained prior to the keeping chickens on the property. The City Clerk shall establish an application process to be followed by all individuals seeking a Chicken Permit. The Chicken Permit shall be issued for a one-year period of time from the date of approval.
- B. Application. Applications for a Chicken Permit shall be filed on forms prescribed by the City and include the following information:
1. Applicant's name and contact information.
 - a. If the applicant is not the property owner, then written permission of the property owner shall be submitted with the application along with the property owner's name and contact information.
 2. Street address or legal description of the property where chickens will be kept.
 3. The requested number of chickens.
 4. Sufficient information to show compliance with the Conditions for Approval set forth in C set forth below and the Performance Standards set forth in Section 6 herein, which shall be confirmed by city staff prior to the issuance of the Chicken Permit.
- C. Conditions for Approval. The Applicant must adequately show, by clear and convincing evidence, that the keeping of chickens will not create a nuisance in the surrounding neighborhood, that humane care will be provided, and that the premises where the chickens are kept are suitable for the keeping of chickens and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to, the following:
1. The chickens will be kept and always maintained in a safe and sanitary manner.
 2. The chicken coop in which the chickens are kept or confined **will** be adequately lighted and ventilated and is so constructed and maintained that they can be kept in a clean and sanitary condition.
 3. The health and well-being of the chickens will not in any way be endangered by the manner of keeping or confinement.
 4. The keeping of the chickens will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.
 5. The keeping of the chickens will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others near the premises where the chickens are kept.

6. The chickens will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property.
7. The chickens will not repeatedly run or be found at large, will not damage or deposit excretory matter upon the property of anyone other than their owner, and will not molest or intimidate pedestrians or passersby.
8. The chickens will not make disturbing noises, including but not limited to, continued and repeated or untimely crowing, whining, growling, cry or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the chickens are kept, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.
9. The applicant, or any person who will share in the care, custody and control of the chickens, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the Chicken Permit.
10. The keeping of the chickens will adhere to the Performance Standards set forth in Section 6 below.

As part of the application process, the Codes Compliance Officer shall inspect the property and submit a written report of the investigation of the property stating the factual basis for a recommendation to grant or deny the application. As part of the evaluation of the above Conditions for Approval, the Codes Compliance Officer may consider the comments of neighbors, past violations by the applicant, the size, condition and location of the area where the chickens will be kept, past complaints concerning the applicant, or any other factors relative to the issue of keeping chickens.

Upon completion of the investigation and review process the Codes Compliance Officer shall recommend approval or denial of the Chicken Permit application. If denial is recommended, the basis for the denial shall be included in the report.

The City Clerk shall deny any application where the applicant fails to show proof of the requirements enumerated above or an examination of the documentation submitted or any investigation by the Codes Compliance Officer, or both, reveals that in the opinion of the Codes Compliance Officer that the applicant has failed to meet the requirements of this Section.

Section 6. Performance Standards.

A. Number and Type of Chickens.

1. Number of Chickens Allowed.

Number of Chickens Allowed		
Lot Size	Chicken Permit Required	Maximum number of Hens Allowed
0.20 - 0.49 Acres	Yes	10
0.50 - 0.99 Acres	Yes	10
1-3 Acres	Yes	10
> 3 acres	No	No Maximum

2. Type of Chickens Allowed.

- a. No roosters are allowed on any property within the City limits.
- b. This Ordinance only allows chickens as defined in Section 3, and does not allow any other fowl, such as, but not limited to, peacocks, turkeys, guinea fowls, ducks or waterfowl, are not permitted under this Section.

B. Locational Requirements.

1. Subject to the provisions of this Ordinance, chickens are allowed on:
 - a. Residentially zoned properties equal to or larger than 0.20 acre and developed with a detached single-family dwelling or duplex.
 - b. Agricultural property of less than 3 acres being used for residential purposes.

2. Setbacks.

Setback Requirements for Chicken Coops, Mobile Pens and Runs	
Yard	Required Setback
Front Yard	Enclosures not permitted
Side Yard	10 feet
Rear Yard	25 feet

3. Chickens shall only be kept upon property which is the principal residence of the owner of the chickens. Tenants and renters of property may keep chickens with the written permission of the property owner. Proof of such permission shall be submitted with the application detailed in Section 5 B.

C. Chicken Coops and Enclosures.

1. Chickens must be provided a secure and well-ventilated chicken coop. Mobile pens or chicken tractors must not be used as the primary chicken coop.
2. Chicken coops and runs must be inspected by the Codes Compliance Officer prior to obtaining chickens and issuance of a Chicken Permit.
3. The floor area of the chicken coop or a combination of the floor area and attached pen area must equal at least 10 square feet of area per chicken.
4. For properties less than 3 acres, no chicken coop, mobile pen or run shall exceed 200 square feet.
5. Chickens must be housed in a chicken coop or other roofed structure, attached pen or detached mobile pen whenever they are unattended by the keeper. During daylight hours, when attended by the keeper, the chickens are allowed in a completely fenced-in yard.
6. Chicken coops and runs must be in a fenced-in rear yard.
7. No chicken coop or run shall be in any area of the property that is considered frontage or a landscaped setback, both of which are defined in detail in applicable Mound City Ordinances.

D. General Requirements.

1. The keeping of chickens shall be done in such a manner as to continually and adequately meet these Performance Standards and the Conditions for Approval set forth in **Section 5 C**.
2. The keeping of chickens shall be done in such a manner as to control noxious odors and the breeding of rodents, flies or other insects, so as not to create a nuisance of any kind. The chicken owner 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 the Codes Compliance Officer.
3. All grain and food stored for the use of chickens shall be kept in a rodent-proof container.
4. Live slaughter of chickens is prohibited on residential property.
5. Chickens shall not be allowed to run at large.
 - a. For the purposes of this Ordinance, any dog attacking a chicken running at large shall not be construed as a dangerous animal based upon the attack of the chicken.
6. It shall further be unlawful to picket or tie any such animal in any of the streets or right-of-way of the City for the purpose of grazing or feeding.
7. The chicken owner must provide for the storage and removal of chicken manure. All stored manure shall be covered in a fully enclosed structure with a roof or lid over the entire structure. No more than 3 cubic feet of manure shall be stored. All other chicken manure not used for composting or fertilizing shall be regularly removed in a manner complying with all applicable federal, state and local regulations. The chicken coop, chicken tractor and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

Section 7. Revocation and Suspension.

Upon recommendation of the Code Compliance Officer, a Chicken Permit may be revoked or suspended by the City Clerk upon a showing any of the following:

- A. The chicken's place of keeping constitutes a nuisance to the surrounding neighbors.
- B. Humane standards of care are not being met by the permittee.
- C. A failure to meet or to continue to meet any applicable Performance Standard or Conditions for Approval.
- D. A violation of City zoning regulations has occurred.
- E. The permittee provided false information in their application; or

- F. In the event it is reasonably necessary to protect against an immediate threat or danger to the public health or safety.

Failure to comply with any provision of this Section shall be considered good cause for revocation or suspension of a Chicken Permit.

Section 8. Appeal.

- A. Any person who is denied a Chicken Permit for keeping chickens, or whose existing Chicken Permit has been revoked, may within 10 days thereafter file a written notice or statement of appeal from said decision, ruling, action, or finding to the Mound City Municipal Court for an administrative hearing thereon.
- B. No fee is required to set an administrative hearing appeal for a Permit appeal. .
- C. The filing of an appeal under this subsection shall not stay any action taken pursuant to this Section.
- D. The hearing on the appeal shall be conducted by a Mound City Municipal Court judge who will sit as an administrative judge for purposes of this Ordinance. The sole issue for determination shall be whether decisions, rulings, actions, or findings of the Codes Compliance Officer or the City Clerk (or their respective designees) were within the scope of their authority, supported by substantial evidence, and not arbitrary or capricious in nature. The Court shall make specific findings of fact and conclusions of law in each case.

Pursuant to its role as administrative judge, the court is empowered to hold hearings, subpoena witnesses, take the testimony of any person under oath and in connection therewith, to require the production of any evidence relating to any matter being heard. In the case of the refusal of any person to comply with any subpoena issued hereunder or to testify in any matter regarding which he or she may be lawfully questioned, the court may order such person to comply with such subpoena and testify; and failure to obey the court's order may be punished by the court as contempt.

Section 9. Violations and Penalty.

- A. The owner or harbinger of chickens in the city who do not follow the requirements within this ordinance shall be subject to a fine for the first offense for violation not more than fifty dollars (\$50.00); for the second offense in violation of this article shall be subject to a fine of not more than one hundred dollars (\$100.00); for any third or subsequent offenses such person shall be subject to a fine of not more than two hundred dollars (\$200.00).
- B. In addition to the fines set out in paragraph (A) above, upon conviction of a third or subsequent offense, the municipal court judge may order that the offending chicken/chickens be removed from the city limits.

Section 10. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.

Section 11. Effect. This Ordinance shall take effect and be in force after its publication in the official City newspaper as required by law.

PASSED by the Council this 3rd day of September 2024.

APPROVED by the Mayor this 3rd day of September 2024.



Mayor, Wade Doering

SEAL:

Attest



City Clerk, Shelby Murray

