

WORKING DRAFT FOR DISCUSSION ONLY

Draft 7-22-12

HENS FOR HOUSTON

Suggested Changes to City of Houston ordinances regarding chicken keeping

Changes are marked in Track Changes to Existing Ordinance
(Additions in blue, deletions struck-out in red)

Code of Ordinances, Chapter 6, Article II, Sections 6-31, 6-33 – 36, 6-38

ARTICLE II. KEEPING OF FOWL, RABBITS AND GUINEA PIGS

Sec. 6-31. Location restrictions for fowl.

It shall be unlawful, except as provided in sections 6-33 and 6-34 of this Code, for any person to keep, possess or maintain in the city any ~~chickens~~, turkeys, geese, ducks, pea-fowls, or any other bird or fowl, except parakeets, canaries, chickens parrots, cockatoos, macaws or similar size birds, or any pens, enclosures, or other structures in which any such fowl are kept or possessed within 100 feet of any actual residence or habitation of human beings, or within 100 feet of any church, school or hospital, other than the residence of the keeper, possessor or owner of such fowl, such distance of 100 feet to be measured in a straight line from the nearest point of any pen, enclosure, or other such structure in which such fowl are kept to the nearest point of such actual residence or place of human habitation, or church, school or hospital.

(Omitted, N/A: Sec. 6-32. Location restrictions for rabbits or guinea pigs.)

Sec. 6-33. Keeping for commercial purposes.

It shall be unlawful for the owner or keeper of any geese, ducks, turkeys, chickens or other domestic fowl or rabbits or guinea pigs, where such fowl or animals are kept for sale or for any purpose other than domestic use or home consumption, to allow such fowl or animals to roam in open pens on the ground; but such owner or keeper may keep such fowl or animals for sale or commercial purposes, provided he keeps such fowl or animals in batteries or coops arranged inside of buildings and kept in a sanitary condition, and he shall remove all droppings from such buildings, batteries or coops at least once each day, and disinfect and deodorize such buildings, batteries or coops at least once each day.

Sec. 6-34. Keeping for public showing.

Notwithstanding anything in this article, it shall be lawful for any person to keep, possess and maintain chickens, turkeys, geese, ducks, pea-fowls, guineas, rabbits and guinea pigs for the purpose of a legitimate showing of such fowl and animals for purely public exhibition, provided the conditions provided in this article are observed.

Sec. 6-35. Limitation on number to be kept.

Comment [SK1]: As Hens for Houston is focused on non-commercial chicken-keeping we do not feel the need to relax this provision.

Comment [SK2]: If the other changes proposed by Hens for Houston were adopted, chickens could be removed from this provision. To reduce the number of changes Hens for Houston proposes no changes to Section 6-34.

No more than 30 chickens, or 30 turkeys, or 30 geese, or 30 ducks, or 30 pea-fowls, or 30 rabbits, or 30 guinea pigs, and no more than 40 of any combination of such chickens, turkeys, geese, ducks, pea-fowls, rabbits and guinea pigs shall be kept upon any lot or enclosure of the size of 65 by 125 feet or less. In the event that such fowl or animals are kept in a larger enclosure, the number so kept and maintained may be increased only in the ratio that the above figures of 30 and 40 bear to the increase in the square footage of such larger enclosure.

Sec. 6-36. Maintenance of premises where kept.

~~(a) Pens, hutches, or houses or any enclosure in which fowl, rabbits or guinea pigs are kept must be cleaned and disinfected daily, must be limed every two days and must be kept in a clean and sanitary condition at all times.~~

~~(b) Litter and droppings from such fowl, rabbits and guinea pigs must be collected daily and stored in a flytight container and hauled away at intervals of not to exceed seven days. Rabbit and guinea pig hutches must have traps or floors to keep droppings or urine from such animals off the ground.~~

(Omitted, N/A: Sec. 6-37. Keeping guineas prohibited.)

Sec. 6-38. Permit to keep chicken hens.

~~Notwithstanding anything in this article it shall be lawful for any person who has obtained a permit therefor from the health officer to keep, possess and maintain no more than seven chicken hens for the purpose of providing such person with fresh unfertilized eggs. A revocable permit therefor may be issued by the health officer for the keeping of seven or less chicken hens under the following conditions:~~

~~(1) The applicant shall furnish or cause to be furnished to the health officer written certification from a licensed physician that in the opinion of such physician the applicant has need of fresh unfertilized chicken eggs for serious reasons pertaining to said person's health.~~

~~(2) The health officer, after inspection by him or his authorized representative, has determined that the premises where the applicant proposes to keep the chicken hens is adequate for the number of chicken hens for which a permit is sought, and that if properly maintained, the keeping of the chicken hens will not create a health hazard or nuisance.~~

~~(3) The permit, if granted, may be revoked upon finding pursuant to a public hearing conducted by the health officer that the permittee cannot or will not maintain the premises in a sanitary condition or that the permittee has failed to permit inspection by the health officer of the place where the hens are kept, provided that the permittee shall be given prior notice of the date, time and place of the hearing setting forth the grounds upon which the revocation is based and affording the permittee an opportunity to appear in person or through counsel, present evidence and cross-examine witnesses appearing at such hearing.~~

Comment [SK3]: Hens for Houston believes that the public interest is adequately protected by Section 6-6. Bird, rabbit and guinea pig litter is generally recognized as valuable fertilizer without composting. Current ordinance reflects outmoded confidence in liming as a sanitation tool. There are more environmentally sensitive effective cleaning techniques.

Comment [SK4]: As unfertilized eggs are generally available currently, this provision is obsolete.

End of Article II: Keeping of Fowl, Rabbits and Guinea Pigs

ORDINANCES PERTAINING TO ANIMALS: Chapter 6 Animals and Fowl

ARTICLE I: IN GENERAL

Sec. 6-2. - Owner's responsibility for animals at large.

Comment [SK5]: This already includes chickens

An owner or any other person having the right of possession of an animal shall ensure that such animal does not run at large in violation of this chapter and shall be subject to punishment under this chapter without regard to whether he was acting with a culpable mental state.

Sec. 6-3. - Running at large of domestic animals or fowl prohibited.

Comment [SK6]: This already includes chickens and is appropriate to retain

(a) The running at large of domestic animals or domestic fowl, within the city limits is hereby declared to be a nuisance and it shall be unlawful for the owner or keeper of any such animal or fowl to permit the same to run at large within the city.

(b) It shall be a defense to prosecution under subsection (a) above that the animal was:

- (1) A dog in an off-leash site established under [section 32-11](#) of this Code; or
- (2) A feral cat that has been subjected to a trap, neuter, and return program approved by the director.

Charter reference— Authority to prohibit livestock from being at large, Art. II, § 16(k).

Sec. 6-6. - General regulations as to care, keeping and using of animals.

Comment [SK7]: This covers chickens as animals generally and is appropriate protection for the public interest generally.

Every owner, caretaker or user of any animal within the city limits shall be required to observe the following rules, regulations, terms and conditions in connection with the care, keeping and using of such animals, and any person violating any provisions hereof shall be deemed guilty of an offense:

(1) All stables or other enclosures in which such animal is kept and the ground upon which same is situated shall be kept and maintained in a clean and sanitary condition, and all stables and fences surrounding such lot where the animal is kept and the feed troughs and water troughs, with which such animals are fed and watered, shall be free from any projection or thing whereon or whereby such animal may be injured.

(2) All animals shall be fed with a quantity of good, wholesome food sufficient to keep them in a good, well-nourished condition, and such food shall be served to such animals in a clean, sanitary manner. (did not include horse specific rules, most had to do with working conditions)

(9) All animals shall be provided with pure, clean water in sufficient quantities at all times.

Charter reference— Authority of city to provide for animal welfare regulations, Art. II, § 16(w).

Sec. 6-7. - Destruction of wounded animals.

Comment [SK8]: This covers chickens as animals generally and is appropriate protection for the public generally.

(a) When from any cause it may happen that any animal within the corporate limits of the city shall be so wounded, maimed or injured as to render its recovery hopeless, then it shall be the duty of the director to cause it to be destroyed. Such destruction shall take place as soon after such injury as practicable, and shall be conducted in such manner as the director shall determine to be the least painful. Upon destruction, the director shall direct or cause the carcass thereof to be lawfully removed

and disposed of. When the director shall cause any animal to be destroyed under this section, it shall be his duty to file a report in writing of such destruction with the city secretary. Such report shall show:

- (1) A description of the animal destroyed, and the name of the owner thereof, if known.
 - (2) The injury which made destruction necessary, and how same was inflicted, and by whom, if known.
 - (3) The names of at least two reliable witnesses, who are conversant with the facts of the injury and the destruction.
- (b) The provision of subsection (a) shall not apply to veterinarians or veterinary hospitals.

Sec. 6-12. - **Restriction on keeping of milch goats.**

Comment [SK9]: Not applicable to chickens

It shall be unlawful for any person to keep, possess or maintain in the city any milch goats or any pens or enclosures in which any such milch goats are kept, possessed or maintained, within 100 feet of any actual residence or habitation of human beings, or within 100 feet of any church, school or hospital, other than the residence of the keeper, possessor or owner of such milch goats, such distance of 100 feet to be measured in a straight line from the nearest point of any pen or enclosure in which such milch goats or sheep are kept to the nearest point of such actual residence or place of human habitation, or church, school or hospital. Provided that this section shall not apply to a qualified institution, approved by the director, where such milch goats are being kept for teaching and research purposes.

Sec. 6-13. - **Restrictions on keeping cattle.**

Comment [SK10]: Not applicable to chickens

(a) It shall be unlawful for any person to keep, possess, or maintain any cow, calf, steer, or bull or any horse, mule, donkey or other animal of the equine family on any uncovered parcel of land unless such parcel of land shall have a minimum area of 5,000 square feet for one such animal, and 2,500 additional square feet for each additional animal.

(b) It shall be unlawful for any person to keep, possess or maintain any cow, calf, steer or bull or any horse, mule, donkey or other animal of the equine family within 100 feet of any actual residence or building used for human habitation (other than that of the keeper or owner of such animal), or any restaurant, cafe, or other public eating place, or any church, school or hospital. Such distance of 100 feet shall be measured in a straight line from the nearest point of the shed, stable, barn, pen or fenced enclosure or area in which the animal is contained to the nearest point of such actual residence or building used for human habitation, restaurant, cafe or other public eating place, or church, school or hospital.

Sec. 6-15. - **Storage, disposal, etc., of manure.**

Comment [SK11]: Not applicable to chickens.

(a) Every person owning or leasing any stable or other building where any horse, mule or cattle is kept shall maintain a substantial and sufficient receptacle for manure, which must be so constructed and kept as to protect the contents from rain and so screened as to prevent access to flies, and all manure from such horse, mule or cattle must be placed in such receptacle.

(b) All persons owning or leasing any stable where horses, mules or cattle are kept shall have all manure from such animals removed from their premises at least twice in each week, and at no time shall the manure be allowed to accumulate in such a manner as to be a nuisance.

(c) In no event or circumstance shall any manure be thrown or deposited in any street or public place, or suffered to remain in such places. No person hauling manure through the streets shall permit the same to litter the streets.

Sec. 6-24. - Defecation by dogs or cats.

(a) It is the duty of each person in control of a dog or cat to promptly remove and dispose of, in a sanitary manner, feces left by such dog or cat.

(b) It shall be the duty of each person in control of a dog or cat to be in possession of materials to remove feces left by such dog or cat.

(c) It is an affirmative defense to prosecution under this section that the person in control of the dog or cat is the owner of the premises, or the owner's agent of the premises, where the dog or cat deposits feces.

(d) Violation of this section is unlawful and any violation shall be punishable upon conviction by a fine of not less than \$75.00 or more than \$500.00. Each act in contravention of this section is a separate offence.

Sec. 6-1. - Definitions and interpretation.

Dog kennel means any lot, enclosure, premises, structure or building whereon or wherein four or more dogs over the age of six months are kept or maintained for any purpose whatsoever.

Sec. 6-121. - Kennel license—Required; fee; exception.

(a) Any person in the city conducting, managing or maintaining a dog kennel shall obtain a license to do so from the department and pay a license tax of \$200.00 per year or fraction thereof, regardless of the number of dogs kept.

Sec. 6-126. - Minimum distance of dog kennel from residence, church, school or hospital.

(a) It shall be unlawful for any person to operate or maintain in the city a dog kennel within 100 feet of any actual residence or habitation for human beings, or within 100 feet of any church, school or hospital, other than the residence of the keeper, possessor or owner of such dog kennel, such distance of 100 feet to be measured in a straight line from the nearest point of any kennel, pen, enclosure, or other structure in which such dogs are kept to the nearest point of such actual residence or place of human habitation, or church, school or hospital.

(b) Subsection (a) of this section shall not apply to any dog kennel that has received approval from the department to operate at a distance less than 100 feet because the dog kennel has implemented containment measures, such as climate control, flooring, wall and ceiling covering, and flushing systems, in compliance with guidelines promulgated by the health officer to ensure standards of cleanliness and

Comment [SK12]: As chicken litter is valuable fertilizer, Hens for Houston does not believe this should be extended to chicken litter

Comment [SK13]: Hens for Houston believes no licensing fees are warranted. Kenneling requirements for chickens are covered in Section 6-35.

other disease control measures. Current copies of such guidelines shall be maintained in the office of the city secretary and at the department for public inspection. The approval required under this section shall be in writing and signed by the director.

(c) Notwithstanding the foregoing subsection, in no instance will a dog kennel license be issued, reissued or renewed for the existence of a dog kennel within 30 feet of any actual residence or habitation for human beings, or within 30 feet of any church, school or hospital, other than the residence of the keeper, possessor or owner of such dog kennel, the measurement to be taken in the same manner as specified above for the 100 feet.

Chapter 10 – Buildings and Neighborhood Protection

ARTICLE XI. - NEIGHBORHOOD NUISANCES

Sec. 10-451. - Nuisances, generally.

(a) Whatever is dangerous to human health or welfare, or whatever renders the ground, the water, the air, or food a hazard to human health is hereby declared to be a nuisance.

(b) The following specific acts, conditions, and things are declared to constitute public nuisances and are hereby prohibited and made unlawful:

(1) The deposit or accumulation of any foul, decaying, or putrescent substance or other offensive matter in or upon any lot, street, or in or upon any public or private place in such a way as to become offensive or objectionable; the overflow of any foul liquids, or the escape of any gases, dusts, fumes, mists, and sprays to such an extent that the same, or any one of them, shall become, or be likely to become, hazardous to health or a source of discomfort to persons living or passing in the vicinity, or that the same shall by reason of offensive odors become a source of discomfort to persons living or passing in the vicinity thereof.

(7) The accumulation of manure, unless it is in a properly constructed pit or receptacle.

(9) The slopping or feeding of cattle or other animals on distillery swill, unless the enclosure wherein such slopping or feeding is done is provided with means for preventing and removing the unsanitary conditions associated with such slopping or feeding.

(d) Except as provided below, whenever in this section an act is made or declared to be unlawful, the first violation by any person of any such provision shall be punishable by a fine of not less than \$50.00 nor more than \$1,000.00; the second violation by the same person of any such provision shall be punishable by a fine of not less than \$100.00 nor more than \$1,500.00; and the third and any subsequent violation by the same person of any such provision shall be punishable by a fine of not less than \$200.00 nor more than \$2,000.00. Provided, however, if a person is convicted of an offense under this section which offense is also a violation of the criminal provisions of any state law, such person shall be subject to the criminal penalties set out in state law. Each day any violation of this section continues shall constitute a separate offense.

The first violation of item 10-451(b)(12) of this Code shall be punishable by a fine of not less than \$200.00, nor more than \$1,000.00; the second violation by the same person of such provision shall be

Comment [SK14]: Includes chickens as well as other animals and Hens for Houston believes this is appropriate to protect the public interest

punishable by a fine of not less than \$400.00, nor more than \$1,500.00; the third and any subsequent violation by the same person of such provision shall be punishable by a fine of not less than \$600.00, nor more than the maximum amount allowed by law.

Chapter 30 - NOISE AND SOUND LEVEL REGULATION

Sec. 30-3. - Noisy animals and birds.

The keeping of any animal or bird that causes or makes frequent or long and continued sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits, and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful regardless of whether the sound so created by said animal or bird is within the permissible levels specified in [section 30-5](#) of this Code.

Comment [SK15]: Includes roosters and other chickens as well as other animals and Hens for Houston believes this is appropriate to protect the public interest

Sec. 30-5. - Maximum permissible sound levels.

(a) In addition to the violations established by the preceding sections of this chapter, it is unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound at any location beyond the property lines of the property on which the sound is being generated that when measured as provided in [section 30-6](#) of this Code exceeds the applicable dB(A) level listed below for the property on which the sound is received:

Comment [SK16]: Includes roosters and other chickens as well as other animals and Hens for Houston believes this is appropriate to protect the public interest.

(1) Residential property:

- a. 65 dB(A) during daytime hours.
- b. 58 dB(A) during nighttime hours.

Comment [SK17]: Citizens in residential neighborhoods are protected from crowing roosters.

(2) *Nonresidential property:* 68 dB(A) at all times. Any sound that exceeds the dB(A) levels set forth in this section under the conditions and measurement criteria set forth in this chapter is a violation of this chapter. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section shall be prima facie evidence of a sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this chapter.

(b) Regardless of the measurable dB(A) level established in this chapter and measured in a manner provided in [section 30-6](#), the creation of any sound causing persons occupying or using any property other than the property upon which the sound is being generated to be aware of vibrations or resonance caused by the sound shall be prima facie evidence of a sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this chapter.